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Canada, Banking and Commerce, Standing
"Committee on (Canada)"
2nd Session, 24th Parliament, 1959

(THE SENATE OF CANADA)



PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

BANKING AND COMMERCE

To whom was referred the Bill C-29, intituled: "An Act to amend
the Trans-Canada Highway Act."

2103

The Honourable **SALTER A. HAYDEN**, Chairman

10-1

TUESDAY, MARCH 17, 1959

WITNESS:

Mr. G. B. Williams, Chief Engineer, Department of Public Works.

REPORT OF THE COMMITTEE

THE QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1959

BANKING AND COMMERCE

The Honourable Salter Adrian Hayden, Chairman

The Honourable Senators

*Aseltine	Golding	Pouliot
Baird	Gouin	Power
Beaubien	Haig	Pratt
Bois	Hardy	Quinn
Bouffard	Hayden	Reid
Brunt	Horner	Robertson
Burchill	Howard	Roebuck
Campbell	Hugessen	Taylor (<i>Norfolk</i>)
Connolly (<i>Ottawa West</i>)	Isnor	Thorvaldson
Crerar	Kinley	Turgeon
Croll	Lambert	Vaillancourt
Davies	Leonard	Vien
Dessureault	*Macdonald	Wall
Emerson	McDonald	White
Euler	McKeen	Wilson
Farquhar	McLean	Woodrow—50.
Farris	Monette	
Gershaw	Paterson	

**ex officio member.*

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate

MONDAY, March 16, 1959.

"Pursuant to the Order of the Day, the Senate resumed the adjourned debate on the motion of the Honourable Senator Aseltine, seconded by the Honourable Senator Brunt, for the second reading of the Bill C-29, intituled: "An Act to amend the Trans-Canada Highway Act".

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The bill was then read the second time.

The Honourable Senator Aseltine moved, seconded by the Honourable Senator Haig, P.C., that the Bill be referred to the Standing Committee on Banking and Commerce.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

REPORT OF THE COMMITTEE

TUESDAY, March 17, 1959.

The Standing Committee on Banking and Commerce to whom was referred the Bill (C-29), intituled: "An Act to amend the Trans-Canada Highway Act", have in obedience to the order of reference of March 16, 1959, examined the said Bill and now report the same without any amendment.

All which is respectfully submitted.

SALTER A. HAYDEN,
Chairman.

MINUTES OF PROCEEDINGS

TUESDAY, March 17, 1959.

Pursuant to adjournment and notice the Standing Committee on Banking and Commerce met this day at 10.30 A.M.

Present: The Honourable Senators: Hayden, *Chairman*; Aseltine, Beaubien, Brunt, Connolly (*Ottawa West*), Croll, Golding, Haig, Horner, Isnor, Kinley, Leonard, Macdonald, McDonald, McKeen, Pouliot, Power, Reid, Thorvaldson, Turgeon, Wall, White, Wilson and Woodrow.—24.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel and the official Reporters of the Senate.

Bill C-29, An Act to amend the Trans-Canada Highway Act, was read and considered.

Mr. G. B. Williams, Chief Engineer, Department of Public Works was heard in explanation of the Bill and was questioned.

On Motion of the Honourable Senator Aseltine it was RESOLVED to report recommending that authority be granted for the printing of 600 copies in English and 200 copies in French of the proceedings on the said Bill.

It was RESOLVED to report the Bill without any amendment.

At 11.30 A.M., the Committee proceeded to the consideration of other Bills.

ATTEST.

A. Fortier,
Clerk of the Committee.

THE SENATE

STANDING COMMITTEE ON BANKING AND COMMERCE

EVIDENCE

OTTAWA, Tuesday, March 17, 1959.

The Standing Committee on Banking and Commerce to whom was referred Bill C-29, to amend the Trans-Canada Highway Act, met this day at 10.30 a.m.

Senator Hayden in the Chair.

The CHAIRMAN: We are now ready to proceed with C-29, which is an act to amend the Trans-Canada Highway Act. May I have a motion to print 600 copies in English and 200 in French?

Hon. SENATORS: Agreed.

The CHAIRMAN: Carried. Mr. Williams is here. He is the chief engineer of the Department of Public Works. Mr. Williams, would you just tell us why it is that this bill is before us, seeking more money in connection with Trans-Canada highway construction?

Mr. G. B. WILLIAMS: The amendment is merely to increase the amount from \$250 million to \$350 million. At the time the act was last amended, in 1956, the estimates were not final, as the routes were not completely surveyed nor were the locations firm. In addition to that, in the 1956 amendments provision was made in the act that any province that wished to leave an existing paved highway without reconstruction, could do so. Since that time some of the provinces have extended the construction that they originally contemplated and that, plus increase in the costs, has necessitated another \$100 million.

Senator BRUNT: Is this the first request for an increase?

Mr. WILLIAMS: No, sir. There was an increase in 1956 from \$150 million to \$250 million.

Senator ISNOR: Which provinces are making extensions, Mr. Williams?

Mr. WILLIAMS: The province of Ontario, the province of Manitoba, and the province of New Brunswick.

Senator MACDONALD: How can they make extensions?

Mr. WILLIAMS: Sir, when we made the amendments in 1956 we went to the provinces and discussed their programs with them in the light that they might leave sections then built without reconstruction, and the provinces at the time, with their locations firm as they had them at that time—we agreed on an estimate of what work they would do. That is what they felt they could carry out. Since that time, in some cases, based on the record of the work they had done and the demands of traffic on it, instead of leaving some of these sections they decided to reconstruct within the period of the agreement.

Senator REID: Have you any information regarding the sections in British Columbia on which they are receiving 90 per cent?

Mr. WILLIAMS: Yes. Actually, the largest mileage of the 90 per cent section is in the Rogers Pass route—that is the largest continuous mileage. I believe there are two or three sections in the Fraser Canyon up to the Thompson

which are on the 90 per cent. They are relatively short sections, but naturally very expensive. They are proceeding with all of those, as well as additional work on the 50-50 basis on the Fraser, and also on the same basis for quite a big construction program from Abbotsford to the new Second Narrows Bridge.

Senator REID: Is that part of the Trans-Canada highway?

Mr. WILLIAMS: Yes, sir.

Senator REID: You provide 50 per cent of that?

Mr. WILLIAMS: Up to the Second Narrows Bridge.

Senator MACDONALD: Which section is under 90 per cent in the province of Ontario?

Mr. WILLIAMS: Roughly 135 miles of the gap section between Agawa and Marathon and an additional six or seven miles near Cavers, between Fort William and Marathon.

Senator ISNOR: Would you be good enough to give me the 90 per cent section in the province of Nova Scotia?

Mr. WILLIAMS: In Nova Scotia the 90 per cent is broken down in this way: from North Sydney to Little Bras d'Or, the Great Bras d'Or crossing plus the highway approaches on either side, the new grading in the vicinity of Baddeck, and a section between Queensville and Port Hastings.

Senator McKEEN: What is that total mileage?

Mr. WILLIAMS: 31.8. I might say the mileages are tentative. There will be adjustments at the end of the agreement.

Senator McDONALD: Has there been a definite decision as to the route throughout the province of Nova Scotia, particularly the Cape Breton area?

Mr. WILLIAMS: Yes.

Senator McDONALD: This was recently decided, was it?

Mr. WILLIAMS: No sir. The location may have been changed in small detail, adjustments with respect to towns and that sort of thing, but it did run from Port Sydney to Port Hastings, crossing Great Bras d'Or in the vicinity of Baddeck.

Senator KINLEY: Has any consideration been given to extending the highway to the Yarmouth Gateway, that is the gateway to the United States?

Mr. WILLIAMS: No, sir. That would be an off-shoot highway.

Senator KINLEY: Well, I think it would be the principal road. The road goes into Truro and the province goes both ways, towards the gateway to the United States and towards the gateway to Newfoundland. They went to the east with the highway but not to the west.

Mr. WILLIAMS: When the first agreement was signed it was decided to take it to North Sydney, which at that time was the main ferry terminal connecting to Port Aux Basques, Newfoundland.

Senator McKEEN: Is there provision for some assistance by the Government, not under the Trans-Canada Highway Act but under another act, with respect to international highways?

Mr. WILLIAMS: No, sir.

Senator McKEEN: There was in connection with the King George Highway in British Columbia that was built to the American side to link up with Highway 99.

Mr. WILLIAMS: Was that in the 1930's?

Senator McKEEN: Yes.

Mr. WILLIAMS: That would be an unemployment relief project.

Senator REID: Have you any direct information as to the cost of the 10 per cent through the Fraser Canyon compared to, shall I say, the rates in Saskatchewan?

Mr. WILLIAMS: The costs in British Columbia are, of course, substantially higher than they are in Saskatchewan.

Senator REID: What is it costing per mile?

Mr. WILLIAMS: It is very difficult at this stage to arrive at an average cost, because we do not know the total mileage; constructed in B.C. the cost per mile varies greatly, of course; however, on the overall average of their programme it would be in the range of perhaps \$250,000 or \$300,000 a mile.

Senator THORVALDSON: In regard to some of that mileage, from Banff to Field, how much would that run a mile?

Mr. WILLIAMS: In the national parks?

Senator THORVALDSON: Yes?

Mr. WILLIAMS: Oh, \$350,000 a mile or \$400,000 a mile.

Senator BRUNT: Has any estimate been made as to a completion date?

Mr. WILLIAMS: The completion date of construction is December 31, 1960, and this agreement terminates at that date.

Senator KINLEY: I think the Port of Yarmouth is reputed to have the most passengers coming into it in eastern Canada. We have the Bluenose running from Yarmouth to Bar Harbour, and it would seem to me that there will always be extensions of highways. I am thinking of federal aid highways. Western Nova Scotia has received nothing from the Trans-Canada highway; there is nothing west of Truro; it has all gone east. There should be some attention given to western Nova Scotia, especially from the fact that our biggest market is in the United States; our goods go through Yarmouth, and the people coming to Nova Scotia come that way. There is a good case for an extension of the highway down to Yarmouth, Nova Scotia. I should like that fact to be put in the limelight.

Senator BRUNT: Would Nova Scotia not have to request it from the Dominion Government, before the Dominion Government could do it? You could not stop off to build the Trans-Canada to the west end.

Senator KINLEY: Oh, I think we could.

Mr. WILLIAMS: This act is very precise; that is, it is to build one project.

Senator WALL: That is to run one ribbon from one end of the continent to the other?

Mr. WILLIAMS: Well, that is the definition.

Senator WALL: That is the concept?

Mr. WILLIAMS: Yes.

Senator WALL: Maybe the concept needs to be widened.

The CHAIRMAN: Well, may I point out, Senator Wall, that these agreements expire next year. Give them a chance to build that original concept before putting the branches on.

Senator KINLEY: Sure.

Senator John A. McDONALD: I hope when they do that that the senator from Queens-Lunenburg will agree there must be two branches, if one of them must go to Lunenburg.

Senator KINLEY: I don't want one to Lunenburg, but I would like one to Yarmouth, and I would like to have one branch go to Halifax.

The CHAIRMAN: Any other questions?

Senator ISNOR: Yes, I have one question. First, I will preface it by asking you this, Mr. Williams: How long have you been with the department?

Mr. WILLIAM: Since June 1955, sir.

Senator ISNOR: Then you do not know the original thought concerning this?

Mr. WILLIAMS: Well, I do, sir. I was with the province of Manitoba for 20 years before I came here, and I was at all of the original meetings with the provinces, and at that time before the federal Government prepared their act there were informal meetings of the provincial officials, setting standards and agreeing on what would be suggested for the acts.

Senator ISNOR: As far as Manitoba is concerned, no doubt you are familiar with the situation there as far as roads are concerned, in addition to which it has extensive forest trade?

Mr. WILLIAMS: In part, yes. There was a highway on most of the routes in existence before this act and naturally they wanted to rebuild it.

Senator ISNOR: Does the department at the present time think of this as a further investment or does it think of it in the form of an expenditure?

Mr. WILLIAMS: I am not quite clear, Senator Isnor.

Senator ISNOR: Well, a great many people refer to road building as a further expenditure. The other thought is that it is an investment so far as the country is concerned. Do you know what the thinking of your department is in respect to this additional \$100 million—do they consider it an investment or an expenditure.

The CHAIRMAN: An investment is an expenditure.

Mr. WILLIAMS: I must speak for myself, but I would certainly say it is an investment. As a matter of fact this is a gilt-edged investment because it gives you a direct return on your money, and then it has a long range aspect in the development of Canada and the resources of the country at large.

Senator POULIOT: It is an expenditure which is an investment.

Senator ISNOR: Mr. Chairman, I was anxious to get that expression so far as the term investment is concerned because a great many are interested in the tourist traffic trade and particularly in the development of our own Trans-Canada Highway because of the large revenue derived on the better type of highways. I am glad to have Mr. Williams' opinion on that. Would you say that is the opinion of the department Mr. Williams?

Mr. WILLIAMS: I could not speak for the department, Senator Isnor.

Senator ISNOR: Would you be good enough to give us the figures for the three provinces you mentioned, the provinces that are still going to add to their mileage, Ontario, Manitoba and New Brunswick?

Mr. WILLIAMS: I should not say "are still going to add to their mileage". The mileage has been fairly firmly fixed since 1956, that is the total length of it, and the initiative for the work that will be undertaken lies completely with the province and when I said that they were extending their work, this has been my discussions with them as of 1956 and what they might do, and I have seen them doing a little more than they had originally planned. I cannot give details of that because they still have two complete construction seasons in which to put this work into effect, and I think they are going to get it done but they may decide not to.

Senator ISNOR: Could you give us the proportion of Ontario, New Brunswick and Manitoba in percentages, or miles?

Mr. WILLIAMS: I could not do that.

Senator ISNOR: Would you say that the present program, which you are familiar with in so far as Ontario's latest action is concerned—is that part of the Trans-Canada program in any particular?

Mr. WILLIAMS: The one that has just been announced?

Senator ISNOR: Yes.

Mr. WILLIAMS: Well, of the total funds that have been voted a proportion will be used to pay for their share of the Trans-Canada Highway, but I cannot say. The funds will be in the money they are voting.

Senator ISNOR: I take it from your answer that that comes within the Trans-Canada Highway plan to co-operate.

Mr. WILLIAMS: The only plan for co-operation at present is this agreement which covers to December 31, 1960.

Senator ISNOR: I was leading up to the thought as expressed by Senator Kinley in regard to that. There is an important highway running from Yarmouth to Halifax. The Bar Harbour-Yarmouth ferry brings the Maritimes a great influx of tourists, and when they reach there while they have a good highway it has not been undertaken as far as Trans-Canada is concerned and Nova Scotia bears the whole of the cost, quite differently from Manitoba, Saskatchewan and Alberta. They did not have roads to come there from Nova Scotia in that time but now they have completed the program according to the high standards of the Trans-Canada Highway system.

Senator BRUNT: A part of the roads in those provinces, are Trans-Canada. The rest of the roads they built to their own specifications.

Senator ISNOR: I am speaking only of the Trans-Canada Highway in those provinces. These Prairie provinces had nothing like the roads that were in Nova Scotia.

Senator BRUNT: Wait a minute. The province of Saskatchewan had a good highway across the south end of the province. It is true it was not up to the specifications of the Trans-Canada Highway but I have driven over it before there was any Trans-Canada Highway system, and I found it to be a good highway.

The CHAIRMAN: Mr. Williams can tell us what they do. Certainly you had to lay out what was to be your Trans-Canada road through the province and having done that they might have had existing roads of a certain character, and I understand they may designate those roads without further expenditure as being part of the Trans-Canada Highway.

Senator POULIOT: Did you travel on the Trans-Canada Highway sections that have been completed?

Mr. WILLIAMS: Yes.

Senator POULIOT: From coast to coast?

Mr. WILLIAMS: Over the period of the last two years, yes.

Senator POULIOT: Now, Mr. Williams would that increase in subsidies for the Trans-Canada Highway, the increase to \$350 million, will it be enough to complete the Trans-Canada Highway or will the department come again for some more money later.

Mr. WILLIAMS: I think we have provided ample funds to cover us to December 31, 1960.

Senator POULIOT: Enough to finish the job?

Mr. WILLIAMS: Yes.

Senator LEONARD: Does that take Quebec into consideration? Suppose Quebec were to come into the plan now.

Mr. WILLIAMS: If Quebec entered into the agreement they would only have 1959 and 1960 construction seasons to make claims and undertake construction in those two seasons. I think we would have enough leeway, and I do think we would have enough money in this vote. This is a guess into what they might do.

Senator POULIOT: Have you travelled on the Quebec roads?

Mr. WILLIAMS: Yes.

Senator POULIOT: Are they as good as the Trans-Canada highways in the other provinces?

Mr. WILLIAMS: Some sections are I would say, equivalent to Trans-Canada Highway standards. But others are not quite so good. They would have to designate a route before we could really compare. There are many alternate routes you could travel through Quebec and they would have to designate some route connecting up to Edmundston, New Brunswick to roughly Hawkesbury in Ontario, which you could compare.

Senator POULIOT: You know the section from the border of New Brunswick to Rivière du Loup?

Mr. WILLIAMS: Yes.

Senator POULIOT: And from Rivière du Loup to Quebec City?

Mr. WILLIAMS: Yes.

Senator POULIOT: And from Quebec City on the south shore to Montreal?

Mr. WILLIAMS: Yes; as a matter of fact, all of it is equivalent to similar sections in the other Maritime provinces or to sections in Ontario.

Senator POULIOT: You find it is just as well built as similar sections in the Maritimes and in Ontario?

Mr. WILLIAMS: There are sections in these other provinces which are of equivalent standard.

Senator POULIOT: Are they acceptable for the Trans-Canada highway?

The CHAIRMAN: That is a hypothetical question, senator.

Mr. WILLIAMS: The provinces would have to enter into an agreement and designate it, before I could say that.

Senator POULIOT: But on the average, are not the Quebec roads just as good as the roads in any other province?

Mr. WILLIAMS: I could not truthfully answer that, sir; I don't know enough about them.

Senator POULIOT: But from the roads you have seen?

Mr. WILLIAMS: From the roads I have driven on in Quebec, I would say there are sections which are equivalent to those of other provinces—not necessarily continuous all the way through. Quebec could designate a paved route through the province which would meet Trans-Canada's standards.

Senator POULIOT: I am talking about the main arteries.

Mr. WILLIAMS: I must correct that: roads which might not meet the Trans-Canada highway standards, but would be acceptable under the concept of a paved highway.

Senator POULIOT: They don't meet the Trans-Canada highway standards because they are not 100 feet wide; but there is a double highway between Montreal and Levis, on the south shore, that is very good.

Mr. WILLIAMS: That is right.

Senator POULIOT: And I know personally that the highway between Rivière du Loup and Edmundston is just as good as the highways in the State of Maine.

Mr. WILLIAMS: That is right.

Senator POULIOT: But you would not judge these highways in the spring of the year when the frost is coming out; it is not a time to pass judgment on a highway, when it is prohibited to truck usage. You know what I mean?

Mr. WILLIAMS: Yes, senator. There is no doubt Quebec could designate a route which would meet the requirements of the Trans-Canada highway, that is, for a paved route across the province.

Senator POULIOT: There is highway No. 2 from the western border of the province of Quebec to New Brunswick. I ask you, do you find that highway No. 2 on the south shore from Montreal to Levis, and from Levis to Rivière du Loup, and from Rivière du Loup to New Brunswick, good or not good?

Mr. WILLIAMS: I can't say precisely as to highway No. 2. All I can say is that Quebec could designate a paved route across the province which would be acceptable under the Trans-Canada highway agreement.

Senator POULIOT: That highway is always considered as highway No. 2 on all plans for tourists—you know that?

Mr. WILLIAMS: Yes. I know the route; I travelled last summer a bit from Edmundston through to Quebec City.

Senator POULIOT: And the road from Montreal to Levis is in good shape too?

Mr. WILLIAMS: I don't know it well enough to say. I could not tell you what it is like now.

Senator POULIOT: I am only asking you to speak of what you know.

Senator BRUNT: I think the honourable senator knows the answers to most of the questions.

Senator POULIOT: Yes, and I could be a witness.

Senator TAYLOR: Mr. Chairman, I would like to ask Mr. Williams if in his opinion all provinces that now have an agreement with the dominion in connection with the Trans-Canada highway, would find it possible to complete their portions of the highway by the end of 1960?

Mr. WILLIAMS: No.

Senator ISNOR: Mr. Chairman, I was interrupted by Senator Brunt, when I was asking—

The CHAIRMAN: Not deliberately, senator.

Senator ISNOR: No, by no means, Mr. Chairman. I made a statement about the position in which Saskatchewan and Alberta found themselves in 1949 with regard to their roads, and I went on to say that I thought it was to their particular benefit as compared with some other provinces—I had in mind the province of Nova Scotia. That is a fair statement, is it not, Mr. Williams?

Mr. WILLIAMS: I would put it this way, sir. In 1949 the Trans-Canada Highway Act was passed, and agreements were signed in 1950, with the exception of Nova Scotia which signed at a subsequent date. But in 1949 or 1950 all provinces had the opportunity to enter into this agreement by which they would designate the route, and the federal Government would contribute 50 per cent at that time to the cost of reconstruction. Every province had the same opportunity to participate.

The CHAIRMAN: And to designate.

Mr. WILLIAMS: To designate the route. It was subject to the approval of the federal Government, because it was always necessary that they meet. But they did have the opportunity to proceed as quickly as they wished on this reconstruction. The provinces signed as they saw fit, and they proceeded with the work.

The agreement was extended in 1956 because the work was not completed; there was a lot of work under way, and in addition to that, once we got started everyone found the job was a little bit bigger than had been originally contemplated, and the construction period was extended to December 31, 1960. Now, I think all provinces had the same opportunity, and I think they would have the same benefit from this type of project.

Senator ISNOR: Mr. Chairman, may I pursue one further thought I had in mind? In 1949 I was one of those who advocated a four-lane entrance to the principal cities. Was that ever pursued in regard to your thinking of the trans-Canada highway?

Mr. WILLIAMS: Yes. There have been many discussions in respect to the construction of four-lane highways; but the standards contained in the agreement now in effect, and also in effect in 1950, was as a result of federal-provincial conferences. The concept of the Trans-Canada highway was to provide a national highway from coast to coast, and the federal Government was sharing the cost as a national project. It was felt that the necessity for four-lane traffic was created by the local condition, and to get this national highway built it was considered in the light a two-lane project; and that additional lanes were created by local conditions, and would be added by the province.

Senator ISNOR: Do you now say, looking back, if they have adopted the principle of four-lane entrances to the principal cities, we would have saved millions of dollars?

Mr. WILLIAMS: No, I could not say that.

Senator HORNER: Mr. Chairman, what part of the road in Saskatchewan was built on other than a 50-50 basis, if any?

Mr. WILLIAMS: There was 10 per cent.

The CHAIRMAN: There would be some part of it—that was 10 per cent—on which the federal authority paid 90 per cent?

Senator HORNER: Very little.

Mr. WILLIAMS: Ten per cent, sir. They got exactly the same arrangement as the other provinces. There were 40.6 miles—and these mileages are subject to minor revisions—10 per cent of the mileage on which the federal Government paid 90 per cent of the cost.

Senator HORNER: It would be much less expensive than, for instance, the road north of Lake Superior.

The CHAIRMAN: Oh, yes.

Senator HORNER: And we had a very good highway in northern Ontario. I have driven over it many times. There is the railroad, on which of course we have to pay fares, and now we are paying tolls on the St. Lawrence Seaway and tolls on the lakes, so I do not see why we should not have a toll highway as well.

Senator BRUNT: Where is the "good highway"?

Senator HORNER: That is the highway in the neighbourhood of Kapuskasing.

Senator BRUNT: Did you ever travel along it in the spring of the year? It would take a caterpillar to go over it at that time.

The CHAIRMAN: Senator Kinley has something which he wants to say, and which he will discuss with reference to a map.

Senator KINLEY: This is a very old map. We hear so much about the desire to do something from the Maritimes, and if you want to do something worth while here is something you can do. The Trans-Canada highway comes down into Nova Scotia, to Truro, in the middle of the province, and then it comes through here (indicating area on map) and out to Newfoundland, or to

connect with the ferry. This Yarmouth section is the shortest route to our markets here and the shortest route for the tourists who come to that part of the country, and it seems to me that this is the part of the province having highways that are provincial and not up to the standard, and that it should have the preference for Canadian highway expenditure. This is a Maritime province, and there are two outlets to the world, one to Newfoundland and this one to the Maritimes. I want to bring this particularly to the attention of the engineer, that the difficulty with highways in this part of the province is that there are expensive bridges, and our bridges are terribly rundown. While the suggestion is on, and there is a feeling that something should be done for the provinces by the sea, I do not know of anything that would do us more good at the moment than to extend the Canada highway down to Yarmouth and into the city of Halifax. The Canada highway does not run into the city.

Senator ISNOR: It is 60 miles from Halifax.

Senator REID: Is the laying out of the routes a prerogative of the province?

The CHAIRMAN: No, the layout of the routes is a dominion Government matter.

Senator KINLEY: The Trans-Canada highway of course, is built in conjunction by the provinces and the dominion Government, and we want just that sort of co-operation for the western part of Nova Scotia. I think it commends itself to anybody, because when you are there at the ocean you have an outlet to the United States and actually, to Newfoundland; and they left this out.

The CHAIRMAN: We are wandering a little bit.

Senator TAYLOR (*Westmorland*): My thought is that if the Government wants to assist the Atlantic provinces in the field of development, I quite agree that the province should select the routes for the Trans-Canada highway—

The CHAIRMAN: That is a basic route which qualifies as Trans-Canada through the province, designated by the province, and still has to be completed.

Senator TAYLOR (*Westmorland*): If you want to assist the provinces and get the Trans-Canada highway built, let the Government pay 90 per cent of the cost of the Trans-Canada highway within the Atlantic provinces.

The CHAIRMAN: I am sure Mr. Williams can report that to his minister. Shall we report the bill without amendment?

Hon. SENATORS: Agreed.

The CHAIRMAN: Carried.

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Senate of Canada
Committee on (Finance)

2nd Session, 24th Parliament, 1959

THE SENATE OF CANADA



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PROCEEDINGS
OF THE
STANDING COMMITTEE
ON
BANKING AND COMMERCE

To whom was referred the Bill C-47, intituled: "An Act
to amend the Excise Tax Act."

[13]

The Honourable **SALTER A. HAYDEN**, Chairman

WEDNESDAY, JUNE 3, 1959

THURSDAY, JUNE 4, 1959

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WITNESSES:

Messrs. F. R. Irwin, Director, Taxation Division, Department of Finance; M. J. Gorman, Director, Excise Tax Administration, Department of National Revenue; R. C. Labarge, Assistant Deputy Minister, Customs and Excise Division, Department of National Revenue; E. F. Power, Assistant Director, Electricity and Gas, Standards Division, Department of Trade and Commerce; A. Bruce Robertson, Q.C., Vice-President and General Counsel, British Columbia Electric Company Limited; W. C. Mainwaring, President, Peace River Power Development Company Limited; C. H. B. Frere, General Solicitor, The Consolidated Mining and Smelting Company of Canada Limited; R. C. Anderson, President and General Manager, West Kootenay Power and Light Company Limited; Lorne McDonald, Q.C., General Counsel, Ontario Hydro Commission; and Mr. Edmond Lemieux, Comptroller, Quebec Hydro.

BANKING AND COMMERCE

The Honourable Salter Adrian Hayden, Chairman

The Honourable Senators

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Baird	Gouin	Pouliot
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Campbell	Hugessen	Roebuck
Connolly (<i>Ottawa West</i>)	Isnor	Taylor (<i>Norfolk</i>)
Crerar	Kinley	Thorvaldson
Croll	Lambert	Turgeon
Davies	Leonard	Vaillancourt
Dessureault	*Macdonald	Vien
Emerson	McDonald	Wall
Euler	McKeen	White
Farquhar	McLean	Wilson
Farris	Monette	Woodrow—50.
Gershaw		

(Quorum 9)

**ex officio member.*

ORDER OF REFERENCE

TUESDAY, June 2, 1959.

"Pursuant to the Order of the Day, the Senate resumed the adjourned debate on the motion of the Honourable Senator Brunt, seconded by the Honourable Senator Haig, P.C., for second reading of the Bill C-47, intituled: An Act to amend the Excise Tax Act.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Brunt moved, seconded by the Honourable Senator Haig, P.C., that the Bill be referred to the Standing Committee on Banking and Commerce.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

REPORT OF THE COMMITTEE

THURSDAY, June 4, 1959.

The Standing Committee of Banking and Commerce to whom was referred the Bill (C-47), intituled: "An Act to amend the Excise Tax Act", have in obedience to the order of reference of June 2, 1959, examined the said Bill and report the same with the following amendments:—

1. *Page 2, lines 12 to 32 both inclusive:—*

Strike out clause 2.

2. *Page 6:—Strike out line 1 and substitute therefor:—"13. Sections 1, 2, 3, 4, 10 and 11 of this Act shall be".*

All which is respectfully submitted.

SALTER A. HAYDEN,
Chairman.

MINUTES OF PROCEEDINGS

WEDNESDAY, June 3, 1959.

Pursuant to adjournment and notice the Standing Committee on Banking and Commerce met this day at 10.30 A.M.

Present: The Honourable Senators:—Hayden, Chairman; Aseltine, Beaubien, Brunt, Burchill, Campbell, Crerar, Croll, Davies, Dessureault, Euler, Farquhar, Gershaw, Golding, Gouin, Haig, Horner, Hugessen, Isnor, Kinley, Lambert, Leonard, Macdonald, McDonald, McKeen, Pouliot, Pratt, Reid, Taylor (*Norfolk*), Thorvaldson, Turgeon, Vaillancourt, Wall, White and Wilson.—35.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel of the Senate, and the Official Reporters of the Senate.

Bill C-47, an Act to amend the Excise Tax Act, was read and considered.

On motion of the Honourable Senator Reid it was Resolved to Report recommending that authority be granted for the printing of 600 copies in English and 200 copies in French of their proceedings on the said Bill.

The following witnesses were heard:—Messrs. F. R. Irwin, Director, Taxation Division, Department of Finance; M. J. Gorman, Director, Excise Tax Administration, Department of National Revenue; R. C. Labarge, Assistant Deputy Minister, Customs and Excise Division, Department of National Revenue; E. F. Power, Assistant Director, Electricity and Gas, Standards Division, Department of Trade and Commerce; A. Bruce Robertson, Q.C., Vice-President and General Counsel, British Columbia Electric Company Limited; and W. C. Mainwaring, President, Peace River Power Development Company Limited.

At 12.45 P.M. the Committee adjourned.

At 2.00 P.M. the Committee resumed.

Present: The Honourable Senators:—Hayden, Chairman; Aseltine, Beaubien, Brunt, Burchill, Campbell, Crerar, Croll, Davies, Dessureault, Gershaw, Golding, Haig, Hugessen, Kinley, Leonard, Macdonald, McDonald, McKeen, Monette, Thorvaldson, Turgeon, Wall and White.—24.

The following witnesses were heard:—Messrs. C. H. B. Frere, General Solicitor, The Consolidated Mining and Smelting Company of Canada Limited; R. C. Anderson, President and General Manager, West Kootenay Power and Light Company, Limited; and Lorne McDonald, Q.C., General Counsel, Ontario Hydro Commission.

At 3.00 P.M. the Committee adjourned.

At 4.30 P.M. the Committee resumed.

Present: The Honourable Senators:—Hayden, Chairman; Aseltine, Brunt, Crerar, Croll, Davies, Euler, Golding, Haig, Kinley, Lambert, Leonard, Macdonald, McDonald, McKeen, Monette, Reid, Thorvaldson and Wall.—19.

Mr. Edmond Lemieux, Comptroller, Quebec, Hydro, was heard.

Mr. F. R. Irwin was further heard in explanation of the Bill.

At 5.00 P.M. the Committee adjourned until tomorrow, Thursday, June 4, 1959, at 10.30 A.M.

THURSDAY, June 4, 1959.

Consideration of Bill C-47, an Act to amend the Excise Tax Act, was resumed.

Present: The Honourable Senators:—Hayden, Chairman; Aseltine, Beaubien, Bouffard, Brunt, Crerar, Croll, Davies, Dessureault, Gershaw, Golding, Haig, Horner, Hugessen, Isnor, Kinley, Lambert, Leonard, Macdonald, McDonald, McKeen, Pratt, Reid, Taylor (*Norfolk*), Turgeon, Vaillancourt, Wall and White.—28.

Messrs. Irwin, Labarge and Power were heard in further explanation of the Bill.

The Bill was considered clause by clause.

Clause 1, was carried.

The question being put as to whether clause 2 of the Bill should carry, the Committee divided as follows:—

YEAS:—12.—NAYS:—13.

So it was resolved in the negative.

Clauses 3 to 12, both inclusive, were carried.

Clause 13, was amended as follows:—

Page 6: Strike out line 1 and substitute therefor “13. Sections 1, 2, 3, 4, 10 and 11 of this Act shall be”.

On Division it was Resolved to report the Bill as follows:—

Page 2, lines 12 to 32 both inclusive:—Strike out clause 2.

Page 6:—Strike out line 1 and substitute therefor:—“13. Sections 1, 2, 3, 4, 10 and 11 of this Act shall be”.

At 1.00 P.M. the Committee adjourned to the call of the Chairman.

Attest.

James D. MacDonald,
Clerk of the Committee.

THE SENATE
STANDING COMMITTEE ON BANKING AND COMMERCE
EVIDENCE

OTTAWA, Wednesday, June 3, 1959.

The Standing Committee on Banking and Commerce, to whom was referred Bill C-47, to amend the Excise Tax Act, met this day at 10.30 a.m.

Senator Hayden in the Chair.

The CHAIRMAN: It is now 10.30 and I call the meeting to order. We have a number of bills this morning and the proposal is that we should deal with the Excise Tax Act amendments first. It was desired that we should have a *Hansard* report of the proceedings, and I take it the committee agrees with that. We should have a motion to print 600 copies in English and 200 in French.

Senator REID: I so move.

Senator BRUNT: I second the motion.

Motion agreed to.

The CHAIRMAN: There are a considerable number of people here to assist us in dealing with these bills. The departmental officials will discuss the amendments generally and then, in connection with certain amendments dealing with export duty on power, we will hear representations from various interested parties.

I think we should proceed in the usual way by hearing the departmental officials first and then when we reach the question of the export tax on power we can hear the representations from the various people affected. Is that plan agreeable?

Senator ASELTINE: Agreed.

The CHAIRMAN: Among our witnesses are F. R. Irwin, Director, Taxation Division, Department of Finance, and R. C. Labarge, Assistant Deputy Minister, Excise Division, Department of National Revenue. They have with them several of their officials, including Mr. E. H. Smith of the Taxation Division, Finance Department. Mr. M. J. Gorman, Director, Excise Tax Branch is here too. Dealing with the question of export tax on power we have Mr. Power, Assistant Director, Standards Branch, Electricity and Gas. I will ask Mr. Irwin and Mr. Labarge to come forward and if they feel they need any more of the powerful forces which they have with them they can have them join them at the head table.

Since there is no principle that can be said to run the whole way through the bill except the desire to raise more money, I think we should get down to a consideration of the various sections of the bill. Mr. Irwin and those who are with him can give an explanation of each section as we go along.

Mr. Irwin, dealing with section 1 of the bill, subsection (1) defines cosmetics, and subsection (2) deals with an enlargement of the definition of a manufacturer. What have you to say in relation to those?

Mr. IRWIN: Mr. Chairman, subsection (1) of section 1 is, of course, only a definition that is necessary for a clause that is further on in the bill. The definition of cosmetics is in the same terms as that used in the schedule for the special excise tax on cosmetics.

The CHAIRMAN: I notice you say a definition, and I made use of that expression myself, but is the manner in which you have cosmetics described so much a definition as it is an enumeration of things that are cosmetics for the purposes of this statute? I notice it says "articles, materials or preparations, et cetera".

Mr. LABARGE: It is an enumeration really to avoid some of the difficulties that people have in interpreting a broad word like cosmetics. I don't know that this is a disadvantage. It seems to me that in a statute, the clearer you can make a definition for the purpose it is intended, the better it is. That is why it is spelled out rather lengthily.

The CHAIRMAN: Any person who wants to take part in this discussion may, but I notice that in carrying on with the definition you say it means articles, et cetera, "in whatever form, commonly or commercially known as toilet articles, preparations or cosmetics." So that in defining cosmetics, in one sense you are saying it is something that is commonly known as a cosmetic.

Mr. LABARGE: It is a help.

Senator POULIOT: I have just come back from the Library where I have looked up the definition of cosmetics. It is not a definition but an enumeration, and an enumeration is far from being a definition. Here is the definition of "cosmetic" in the 1958 edition of Webster:

Any preparation (except soap) to be applied on the surface of the human body for beautifying or lending attractiveness to the person, for altering the appearance, as of theatricals or for cleansing, conditioning, or protecting the skin, hair, nails, lips, eyes, or teeth.

The enumeration in paragraph (a) includes shaving soaps and shaving creams, which is a soap. I wonder if we could not amend the paragraph so as to delete the words "shaving soaps and shaving creams"? Otherwise people will be induced to let their whiskers grow according to the fashion, and people of Montreal or other places will be supporters of Castro. I know that the words "shaving soaps" and "shaving creams" should be deleted.

The CHAIRMAN: Before dealing with the motion, is there anything you wish to add, Mr. Irwin?

Mr. LABARGE: Yes, I would like to add that this stems obviously from a levy, an excise tax, on these specific items, and since they are in Schedule 1 they are specifically made taxable, despite the fact some people might like to see them fall out of the definition of cosmetics; and so having them spelled out for the purpose of the specific tax, the excise tax, it is not illogical, I would say, for them to be equally spelled out for the purpose of sales tax and the definition of "manufacturer" of those products.

Senator POULIOT: You should tax cleaners.

Mr. IRWIN: Well, this is a matter of policy.

Senator KINLEY: It is a pretty comprehensive definition. It includes a lot of things as, for instance, Lysol.

The CHAIRMAN: Hygeol.

Senator KINLEY: I had in mind Listerine more than anything; it includes that. Why you take shaving soaps as against all other soaps, I do not know. It is used by everybody. There are highly scented soaps that would not be included, would they?

Mr. LABARGE: Ordinary soaps are not; but may I say the crucial thing here is that these are items which are specifically taxed in the schedule, and the removal of any one of them implies a loss of revenue, and this the Minister of Finance—

Senator KINLEY: This is a definition. What is the significance throughout the act, to put a special tax on?

Mr. LABARGE: No. I am quite sure that the people who manufacture these goods know in relation to the definitions, the enactments, which follow regarding the packages of these sales, these goods, in this instance, that if they package they are the manufacturers of them, and that is to bring it in line also with the specifications in Schedule 1 which are for the purpose of levying the excise tax. Now, the sales tax and the excise tax, will harmonize in their application to these particular commodities.

Senator CROLL: Mr. Labarge, referring to the paragraph you were just looking at, can you give me an example of similar preparations, that is, the last words in the section—the catch-all? What do you mean by that?

Mr. GORMAN: During the administration of this statute we simply run across articles which are not known by these names but serve a similar purpose. It is a common occurrence of departmental officers that you will run across goods serving the same purpose, but not ordinarily known here. Listerine was mentioned by one senator as an example. There are other products serving the same purpose but not called Listerine. Now, I find it hard at the moment to name some of them, but they could be ascertained if desired.

Senator WHITE: Mr. Chairman, I want to ask Mr. Labarge a question. I understood you to say a moment ago that ordinary toilet soap would be excluded. If that is correct, how would you get away from what you say in the definition, “. . . known as toilet articles for use or application for toilet purposes”?

Surely that would include ordinary toilet soap. Is soap included?

Mr. GORMAN: It is.

Senator WHITE: I understood Mr. Labarge to say it is not included.

Mr. GORMAN: Some years ago during the war there was an excise tax of 5 per cent on ordinary soaps while cosmetics bore an excise tax of 25 per cent. The Government removed the excise tax from soaps of 5 per cent but it was not felt they could remove the excise tax of 25 per cent on cosmetics.

Senator WHITE: Then ordinary toilet soap is included?

Mr. GORMAN: Ordinary toilet soap is not included.

Senator WHITE: My interpretation of your definition, to me, would include it. Surely if you take a bath that is for toilet purposes, and you use soap in doing so. Would you not think so from your definition?

Mr. GORMAN: It could, but administratively it has not been done.

Senator BRUNT: Yes, but you may change the administration of the act.

The CHAIRMAN: You certainly could argue, Senator White, if you wanted to, that ordinary toilet soap is included in this definition of cosmetics.

Senator WHITE: Then if toilet soap could be included, is shaving soap not also included?

The CHAIRMAN: But they do bring that in specifically by saying, “Including shaving soap.”

Mr. LABARGE: Sales tax does cover shaving soap.

Senator WALL: May I come back to a question of smaller proportions and point, out, with respect, that I could argue that that part is co-ordinated only with the word “scents” and is not applicable to the rest of the paragraph. I am going to suggest, Mr. Chairman, that there might be a comma after the words “scents”.

The CHAIRMAN: Well, it would be a small point.

Any other questions on this point?

Senator GERSHAW: Does the classification "antiseptics" include such things as iodine, mercurochrome, rubbing alcohol and all other hospital supplies?

Mr. LABARGE: Yes.

Senator REID: In my opinion they are leaving too much, Mr. Chairman, to the interpretation of the officials as to what will be taxed and what will not be taxed.

Mr. LABARGE: I think, Senator Reid, that one of the points was that we were being rather fulsome in this definition, and I would say you would have to be very fulsome and very detailed in order to remove this job we have of interpreting the act. Of course, any interpretation that we give is subject to appeal as to whether or not a particular product does or does not fall within the category say of a mouth wash or any of these taxable items. I might say that some appeals have been lost and some have been won. The main products on which rulings have been appealed fall in the class of germicides, disinfectants, and ordinary mouth washes.

The main one is the field of germicides, disinfectants and ordinary mouthwash. It is pretty difficult for anybody to decide what is a germicide or what is a disinfectant, as compared with what is an ordinary mouthwash. You have to have all kinds of discussion as to what they call it themselves, and what common use is made of it. Then you get scientists who will come in and talk about bacillus streptococci and various other kinds of germs that are killed off at a certain rate, and then you end up with comparing it with the human saliva which in some cases is stronger than the germicide or disinfectant. It is rightfully subject to appeal for anybody who maintains that his product does not fall into this category.

Senator KINLEY: The section does not include soaps.

Mr. LABARGE: Let us put it this way: I think one could probably include soaps in this category, but as Mr. Gorman has indicated, we get the sales tax on ordinary soap, because soap is not exempt under the sales tax schedule, Schedule III, but we do not get the excise. We do not collect excise tax on soap under the definition in Schedule I, which corresponds to this one.

Senator KINLEY: You want it on those things that are used to cleanse the body?

Mr. LABARGE: Of a cosmetic type.

Senator THORVALDSON: I am quite convinced that this section includes ordinary toilet soap; consequently, if you do not tax it, it is simply a departmental exemption.

Senator HUGESSEN: The witness said at one point they had an excise tax on soap. When they had that they must have had a definition of ordinary toilet soap. If I may suggest in order to make this clear and to cover the point raised by the senator, we might add a phrase at the end of the section to the effect that it excluded toilet soaps, and then go on with a definition of what are toilet soaps.

Mr. GORMAN: There was an excise tax of 5 per cent on soaps some years ago, particularly during the war, but there was no definition of soaps in the statute at that time. The departmental officers had to use their administrative judgment when deciding whether it was soap or not.

Senator HUGESSEN: That is what we want to get away from, leaving it to the department to use its discretion.

The CHAIRMAN: Senator Hugessen, I think where the problem has developed is that in the present statute the definition of "cosmetics" appears in Schedule I, which deals with the excise levy; and now, the definition is being lifted out of that schedule and put into the statute.

Mr. IRWIN: It is being left in the schedule as well.

The CHAIRMAN: The purpose of putting it into the statute as a definition, as I see it, is to provide a base where you may look when you want to determine whether or not a person is selling soap or any other of these products, to see whether he is a manufacturer within the definitions in subclause 2.

Senator HUGESSEN: That is right.

The CHAIRMAN: Therefore, it seems to me it becomes more important to know just what is included, and in what respects a person who does not actually make the product can by statute be said to be taxed as a manufacturer of the product.

Senator KINLEY: It seems to me it is unfair to the trade. You have a list of similar articles here, used for this purpose and that purpose, but the matter is left to somebody's opinion. It is not definite. This statute should tell the trade what they can and cannot sell under certain conditions. It does not do that. It leaves it in the field of mystery.

Mr. LABARGE: If I may say so, we are sometimes injected into a field of mystery because, as you know, "a rose by any other name" probably applies more in the field of cosmetics than elsewhere. Some of the fantastic descriptions mislead one as to whether the product is or is not a cosmetic. What we try to determine is what it is used for.

The CHAIRMAN: It is all right to define things by their use, but we are at the moment talking about soaps. It seems to me that tax-wise the situation would not suffer, certainly not so far as excise tax is concerned, if the definition in the opening paragraph of the statute itself excepted toilet soaps from the definition of cosmetics. You still get your excise tax.

Senator DAVIES: Mr. Chairman, may I ask one question. One of the officials said some of these things could be appealed, but who would the appeal be to?

The CHAIRMAN: The Tariff Board.

Senator CAMPBELL: What change, in effect, will take place in the rules of the department so far as the levy of excise and sales tax is concerned if this section goes into effect?

Mr. LABARGE: There is no change excise tax-wise because it is not provided for in that section of the statute. This change affects sales tax on cosmetics.

Senator CAMPBELL: Then, the next question I have is: Will you be taxed on sales taxed articles which are not now taxed, as a matter of practice in the department.

Mr. LABARGE: No, it will not change the incidence of tax. The definition itself will not change that, but it will make it clearer. When you come to section 4, you see, where we have there said that any person who wraps, packages, *et cetera* becomes a manufacturer. He wants to know what he is, and he goes to the definition. It will not change it, and so far as the trade is concerned I cannot say we are having too much difficulty over this. This definition has been in for a long time, and the number of appeals has been small.

The CHAIRMAN: Yes, but, Mr. Labarge, when you get this section into the law you will then be drawing that person into the category of a manufacturer, and taxing him at a higher level than he is presently taxed. For instance, if I am in the making of some kind of soap and I place an order with a person who makes soap and I have him put my trade name and the name of my company on it, then if this section becomes law I am the manufacturer whereas heretofore the manufacturer was the actual manufacturer,

and, therefore, the sales tax that you will get will be on my sale price and not on my purchase price, and I will pay more sales tax. That is correct, is it not?

Mr. LABARGE: Yes.

Senator Crerar: Would the principal factor in determining this be a matter of revenue?

The CHAIRMAN: I would like to think that it is. I have an idea it may be intended to regulate trade as well.

Senator CRERAR: What would be the effect of it—to restrict trade? No, it cannot be that.

The CHAIRMAN: No, to level out as between one group of sellers and another group of sellers.

Senator CRERAR: Perhaps we could have an explanation of why there is a need for that?

Mr. LABARGE: Well, this stems first from problems brought to the Government, and to the Sales Tax Committee in particular, over the course of many years where the outstanding instance of grievance was the inequality in the tax as applied where a person imported from, say, the United States the bulk materials which he ultimately broke up and packaged. On importing it in bulk form he got it at absolutely the lowest import value, and since he was an importer the tax applied at that time. That is on a pretty low value. The Canadian manufacturer who manufactured the basic articles including the packaging operations had all the costs of a fully-integrated manufacturer, including overhead, selling, advertising, and distribution, and obviously the price level of the Canadian manufacture who did the whole job was much above the price on what was brought in in bulk raw form and merely repackaged.

Senator CRERAR: Is the purpose to give further protection to the Canadian producer?

Mr. LABARGE: In effect it removes that tax inequality which arose from a low tax at this level and the higher tax at another level.

The CHAIRMAN: Just there, Senator Crerar, exactly the same situation exists in relation to domestic production. The price range may be a little different but I can buy in bulk in Canada the same as I can buy in bulk in the United States. I may pay a little more for it but both categories are being hit by this change, even the domestic bulk producer who sells to some person who package in Canada, so that you have the whole operation in Canada, is being drawn into this. His level for calculation of tax will be higher. The tax will be more. The cost will be more, and when you get your markups the consumer will pay more.

Senator KINLEY: Does't that follow through in all manufacturing in Canada, that a manufacturer imports parts and he gets people to integrate it into an article that he is making and he is getting a lower rate of duty? It has always been considered salutary that a man who makes an article by assembling the raw material gets a break on the raw material he uses.

Mr. LABARGE: The manufacturer in that case actually carries on many manufacturing operations to come out with the complete article. He does not pay the tax at the time it is brought in. He gets it under his licence and the tax applies on the ultimate product. There is a greater inequity in cosmetics and pharmaceuticals. The margin has been quite extensive, and this has been the field where the greatest grievance was stressed.

Senator KINLEY: I have been in the drug business. I was behind the counter for 30 years. When I first started we made our own pills, emulsions, elixirs, and so on. Now we are in the machine age and so we go to Parke Davis or some other drug company and say, "We want 300 bottles of this product. We will buy it from you in the completed form and you will put our name on it." That is the difference. Now we become the manufacturer and you are going to put this under a special tax.

The CHAIRMAN: No, you would not be the manufacturer even under the new amendment.

Senator KINLEY: I think so.

The CHAIRMAN: Not if you are selling it retail in a store.

Mr. LABARGE: Are you manufacturing it in the store and selling it from the store?

Senator KINLEY: No. We don't do that any more. We buy these things from a manufacturer in Toronto and he puts our brand name on it.

Senator CRERAR: That is a rather complex matter and a little bit beyond my benighted understanding, but let us take an illustration. That is perhaps the best way to deal with it. Take a company like Eaton's. Let us say they buy vinegar in bulk form from some producer who makes vinegar.

Mr. LABARGE: This would not affect them.

The CHAIRMAN: This only deals with cosmetics and pharmaceuticals.

Senator CRERAR: All right. Take, then, for an illustration—

Senator KINLEY: Take molasses.

Senator CRERAR: No, take toothpaste. Let us say Eaton's buy toothpaste in bulk and put it in a tube and put their name on it. They do not distribute it outside their retail stores. It is sold only within their own stores. Now, do they under this definition become manufacturers?

Mr. LABARGE: Yes.

Mr. GORMAN: May I speak to that? If Eaton's do that processing on their retail counters they are not subject to the tax. If they do it in a workshop and then distribute it to the retail counters they are deemed to be a manufacturer.

Senator CRERAR: Let us follow that further. Let us say they buy this in bulk form and in a room in the back of their store they have three or four people who put it in tubes and the tubes are then labelled with Eaton's label and they go to the retail counter. Are they a manufacturer?

Mr. LABARGE: If that is in the same store, just the one store, they are not manufacturers. Say that they have several retail outlets. If they manufacture centrally and then transfer the goods to these several retail stores, they become manufacturers and pay the tax.

Senator CRERAR: Take Safeway stores, which is a chain store system. They probably have a dozen stores in Winnipeg alone. Let us say they are selling toothpaste in Winnipeg. They buy it in bulk and they have a place where they put it in tubes and they put "Safeway's Famous Toothpaste" or something like that on it. Then let us say they distribute it from the place where they assemble it to their various stores. Then they are manufacturers, are they?

Mr. LABARGE: That is right.

Senator CRERAR: That does not make much sense to me.

Senator MACDONALD: Are they manufacturers within the store where it is put into tubes and sold?

The CHAIRMAN: No.

Mr. LABARGE: You mean one individual store?

Senator MACDONALD: No, supposing Safeways put it in tubes in store "A" and they sell quite a quantity of it in store "A". Now, they are not manufacturers in store "A"?

The CHAIRMAN: No.

Senator MACDONALD: But if they then distribute it and sell it in stores "B", "C", "D", "E" and "F", would they be manufacturers in those stores and not in store "A"?

The CHAIRMAN: That is right.

Senator CAMPBELL: I wonder if someone from the department could give us one or two examples of the inequities which they say has brought about this proposed change?

Mr. LABARGE: While Mr. Gorman is getting certain figures may I say the same thing was done in connection with candy in terms of the Excise Act several years ago and for the same reasons, and it has worked out very satisfactorily.

The CHAIRMAN: You are talking now about the packaging?

Mr. LABARGE: Yes.

Mr. GORMAN: I am going to quote some figures, and for the sake of being confidential I will use the terms "X" and "Y". Here is a product called "X" purchased by a firm normally a manufacturer. That firm has the physical operations done by another firm. The cost to the normal manufacturer is 89 cents per item of "X". That firm sells to wholesalers at \$3 per item of "X". The price to the user is six dollars per item of "X". Up until this change in the law the Government received tax on 89 cents; now it will receive tax on the approximate sales price to the wholesaler by the integrated manufacturer of three dollars.

Senator CAMPBELL: Do you consider that procedure as an attempt to decrease tax payable?

Mr. GORMAN: To increase the tax payable.

Senator CAMPBELL: But the practice that was followed in this case that you referred to, was it done for the purpose of reducing the tax?

Mr. GORMAN: Oh, no, sir.

Senator CAMPBELL: You referred to one manufacturer who appoints another manufacturer to package his goods. Now, what was the purpose of that?

Mr. GORMAN: I do not know, senator; I cannot tell the intention of the second manufacturer.

Senator CAMPBELL: Is this a common procedure among manufacturers?

Mr. GORMAN: Frequently.

The CHAIRMAN: It is pretty common.

Senator CAMPBELL: But there must be some business reason for it, otherwise the original manufacturer would undoubtedly have done his manufacturing himself.

The CHAIRMAN: Well, he avoids capital investment.

Senator CAMPBELL: So there are principles involved?

Mr. GORMAN: Perhaps I can clarify this a little further. There is a case known to the department where an integrated manufacturer, his lease having expired, was forced with the problem of building a new factory in Canada. I understand land was acquired, and I further understand that the parent company, the foreign company, instructed the subsidiary not to construct a factory but to send the foreign goods to Canada and save very substantially on the tax. It would appear from the verbal information which the department had that the saving on tax was sufficient to instruct the Canadian company not

to proceed with the building of a new plant where the old one happened to be located. I understand now that orders have gone forward to the Canadian subsidiary to proceed with the building of a new plant.

The CHAIRMAN: There would still be a customs duty on the product that he would bring in.

Mr. GORMAN: That is right.

Senator CRERAR: Coming back to the illustration given a few moments ago. Next door to where I live is a very large retail store, with one store in a city or town; they buy a hogshead, or whatever other measurement there is, say, of shaving soap, and they have a little place in their store and put this in tubes, and take the tubes to the counters. Now, I understand they would not be classed as a manufacturer.

Mr. LABARGE: That is so.

Senator CRERAR: Very good. Safeway in the same city has half a dozen stores; they buy a hogshead of the same material. Now, at the rear of one of their stores, or maybe outside of their stores altogether, they have a place where they put the shaving soap in tubes, and which they label "shaving soap"; they then distribute these to half a dozen stores where they are sold, and they are manufacturers. Now, the question is, on what principle do you determine that differentiation?

Mr. LABARGE: Well, I think one of the important principles is volume.

Senator CRERAR: But suppose the volume was the same?

Mr. LABARGE: It is not likely to be. The other thing is that it does not seem practical or desirable to take in all the other people, the small corner drug stores, and all the others, why buy in bulk, and then into package form, and what not; it is not practical for all these people to be licensed manufacturers. We had the same problem in the candy business.

Senator CRERAR: What is the difference in the ultimate cost?

Mr. LABARGE: Well, Eatons I am afraid would be in the same class. I cannot conceive that any large outlet with retail stores, such as Eatons—

Senator CRERAR: No, I am speaking of one store in the city.

Mr. LABARGE: Well, if they limit it to one store—

Senator CRERAR: Well, they are in a good position, but I am speaking of the other fellow who has six stores.

Mr. LABARGE: Well, anybody with six, three or two stores is doing a central manufacturing operation.

Senator CRERAR: He becomes a manufacturer?

Mr. LABARGE: Yes.

Senator CRERAR: And as a result of his becoming a manufacturer is his cost higher than Eatons when the stuff goes off the counter?

The CHAIRMAN: I think there might be some compensations. First of all, his cost of packaging would be less, since he does it in a central agency for distribution to a whole series of stores, than if you did it in each store.

Senator CRERAR: Does the tax fall on them alike?

Mr. LABARGE: It falls on them at a different point. Probably the tax element in the Safeway case will be on the selling price of Safeway. Now, they sell directly to retailers, so you would have to give them some deduction off the retail list to establish a fictional wholesale price.

Senator REID: I think the principle is entirely wrong. The one only sells a small quantity in his own store. Is it not a fact that they are both manufacturers in the strict sense of the word? Both of them make the product.

The CHAIRMAN: Well, the statute recognizes that, because it provides an exception in the case where you do it in a retail store, where you are actually making the sale to the customer.

Senator McKEEN: I will take a third case. Eatons have been doing it for one store, and Safeway for another. I have another group of stores, and I ask a manufacturer to put my trade name and label on it and put it in my store, and I am a manufacturer.

The CHAIRMAN: You certainly are.

Senator BRUNT: I should like to ask Mr. Labarge if he has any objection to adding a few words to this clause so that toilet soap will be excluded.

The CHAIRMAN: After the word "commercially"?

Senator BRUNT: Yes.

The CHAIRMAN: Yes, Mr. Labarge, to put in the words, "other than toilet soap".

Senator CROLL: You will have to have a definition of toilet soap, then. Is toilet soap defined?

Mr. LABARGE: No.

Senator CROLL: I think it has been our practice in the past, and I can be corrected, that when departmental officials have come here for the purposes of record and have said that "X" article is not taxable, we have always taken their word for it and allowed it to remain in that sense; and this attempt to correct this situation at the moment will merely put hem in a strait-jacket, because then you move on from there to a definition of what you are exempting and you are in further trouble. They have said here it is now exempt and we have not collected tax on it for a number of years. It goes back to what year?

Mr. LABARGE: Back to 1947.

Senator CROLL: To backtrack, it seems to me, is not to make very much progress.

The CHAIRMAN: You are right, that if we put these words in subparagraph 1 of clause 1 we would be exempting toilet soaps from sales tax. Soaps are now subject to sales tax and we do not want to change that, much as we might like to, because we must not interfere with ways and means. So I do not think the proper place to put it, if you were contemplating a change, would be in clause 1.

Senator CROLL: Of course not.

The CHAIRMAN: You would have to amend the provision as to excise in section 1 if you do it.

Senator KINLEY: Mr. Chairman, do you think it is fair to put that blanket term, "Similar preparations" in this definition? Why cannot they be dealt with when they come up? Everybody will be in trouble and there will be arguments as to what is a similar preparation. I think that people should not be left in that position.

The CHAIRMAN: I have always found that if you leave a little flexibility in a definition or in a section that you get pretty reasonable consideration administratively whereas, if you try to box the thing in by putting in exact words in an enumeration of this kind then you shut out the possibility of getting that flexibility in administration. I am all for flexibility in this kind of a statute.

Senator KINLEY: Are you for flexibility when the other fellow has the say and you have none?

The CHAIRMAN: That always happens where somebody has authority to tax, and my only duty is to pay it.

Mr. LABARGE: Mr. Chairman, the people we are talking about here are all in the business now and all know what taxes apply to what under this statute. The only difference is there is one fellow who is manufacturing it in bulk for another fellow who is packaging it, and this man who is manufacturing it in bulk now is paying the tax, but he is paying it on a certain price. Now, the burden will shift. He will drop out of that picture in so far as the man who is packaging it is concerned, he knows what he has been buying and what taxes have been paid on, and in that way their position is changed as far as the commodities are concerned.

Senator DAVIES: I suppose the increased sales tax will be paid by the consumer, is that the idea?

The CHAIRMAN: There is only one place they get taxes from.

Senator THORVALDSON: Mr. Chairman, listening to this evidence, it seems to me that there is a discrimination between the man who does the complete manufacturing operation and the man who divides his operation in two, and it seems to me if I was doing it I would not think of doing the manufacturing of shaving soap and the packaging of it because I can save money by doing the packaging alone and buying the raw material from another manufacturer. So it does seem there is a discrimination here that is involved as well, incidentally, as an increase in revenue.

The CHAIRMAN: Of course, if you subscribe to the principle that it is part of the Government policy in a statute of this kind to level out costs as among a group occupying the same field, and therefore if that is policy of course what you are doing is discouraging ingenuity and ability to do a job at the cheapest price consistent with quality, et cetera as against the other person who has not the same resourcefulness.

Senator CROLL: Mr. Chairman, there is one more thing that we are doing here that is rather important: We have pretty well lost the corner grocer. Is it not rather an equalizer for the corner drug store that is still in business as against the chain stores, which still gives him a chance to live whereas otherwise he is unable to do it.

Senator KINLEY: There is one factor, it protects the small-store man.

Senator CROLL: In these circumstances he gets a fairer shake than he would otherwise get, which I think is important.

Senator KINLEY: If the corner-store man gets a product manufactured by somebody else and packaged with his name on it is he classed as a manufacturer?

The CHAIRMAN: If he gets another manufacturer to make the product and put his name on it and he sells it in a retail store he is not a manufacturer.

There is one question I want to ask, and it is more for information. Can you tell us, Mr. Irwin, or Mr. Labarge, why the application of subsection 2 in clause 1 extending the definition of a manufacturer is being confined to the manufacture of cosmetics or pharmaceuticals?

Senator CRERAR: That is really a good question.

Mr. LABARGE: That is a honey of a question.

Well, it is felt that this field of cosmetics and pharmaceuticals was by far the most striking, and there was a specific recommendation of the sales tax committee that we do something about this.

Senator CROLL: What is the sales tax committee?

Mr. LABARGE: The sales tax committee was appointed in 1955 by the Minister of Finance at that time. It was an independent committee. It was

appointed following representations of the Canadian Tax Foundation and on it were men of very high calibre, Mr. Raymond Dupuis, of Montreal, Mr. Ken Carter, of McDonald, Currie and Company, and Mr. A. E. McGillvray.

As I said, it is an independent body. They held many hearings and on this specific point they did bring out pharmaceuticals and cosmetics as being the most important ones. From our point of view we think there are two things occurring here: (1) There will be an adjustment in what was the greatest case of irritation, shall we say, and there will also be a period of experience given to the department, and if there are other outstanding similar cases they will be dealt with later. I can think of one now, ink.

The CHAIRMAN: I can think of one too, tires.

Senator BRUNT: That must be a client of yours.

Senator BURCHILL: Does this change in the act come as a recommendation from that committee that you mentioned?

Mr. LABARGE: Yes.

Senator CROLL: In other words, what you are saying is that there will be more of this coming in other days?

Mr. LABARGE: I would hesitate to make that statement, Senator Croll.

The CHAIRMAN: You did say whether, "for good or bad".

Before we pass to the next section we had an amendment proposed by Senator Pouliot.

Senator CAMPBELL: Before putting the question on that amendment, Mr. Chairman, may I ask whether there is anyone from the manufacturers or other people who have asked to be heard on this occasion.

The CHAIRMAN: Not before this committee.

Senator McDONALD (*Kings*): Mr. Chairman, can we be assured that the common toilet soap, shaving soap and shaving creams will not be additionally taxed?

The CHAIRMAN: There is no assurance of that. Shaving soap is taxed and remains taxed under this definition.

The amendment proposed by Senator Pouliot is that toilet soaps be excluded from the definition in subclause 1.

Those in favour? Those against?

I declare the amendment lost.

Shall the section carry in the form in which it is?

Hon. SENATORS: Carried.

The CHAIRMAN: Subsections 1 and 2 of section 1 have carried?

Some SENATORS: Carried.

The CHAIRMAN: Subsection 3 of section 1 deals with the definition of pharmaceuticals. Are there any questions on that subsection?

Some SENATORS: Carried.

The CHAIRMAN: Now we come to Part II, which deals with export duty on electricity. May I suggest that the departmental representatives give us a brief explanation as to what is the purpose of these several sections, and then we will hear the representations from industry. We have a number of briefs, and the people who submitted them are represented here. I would ask Mr. Irwin to state the purpose.

Senator MACDONALD: I hope the explanation will not only be brief, but that it will be clear, Mr. Chairman, because this is too complex for a lot of us.

Mr. IRWIN: Mr. Chairman, first, the purpose of this amendment is, I think, clear, in that it is simply to place under this act a tax which has for a number of years been imposed under the authority of the Exportation of Power and

Fluids and Importation of Gas Act. That act, with its long title, gives authority under order in council to impose a tax on the export of electricity. This amendment merely transfers that power to the Excise Act, and removes the provision with respect to the imposition of rates by order in council, and fixes the rate by statute. The rate provided by this amendment is the same rate as that which has been imposed under the Exportation of Power and Fluids and Importation of Gas Act.

Senator CROLL: It has not been changed since 1955?

Mr. IRWIN: The rate has not been changed for a number of years.

Senator MACDONALD: Could we have the reason for the change?

The CHAIRMAN: The reason for transferring it from one statute to another?

Senator MACDONALD: Yes.

Mr. IRWIN: I understand the reason is that it is proposed to repeal the Exportation of Power and Fluids and Importation of Gas Act, since it will pass out of the picture with the new Energy Board.

Mr. LABARGE: There is another point of principle. I think the export and control of electricity is not normally thought of as a taxing statute. It was imposed in a statute which has purposes other than tax. I believe the Minister of Finance feels that the tax should be in a taxing statute, particularly where it can have a bearing on the revenue; and since there is revenue, why should it not go to the Revenue Department?

Senator CROLL: There is even more to it than that. It is the opposition to Government by order in council rather than by statute. If a change is proposed, it must be done by Parliament, which is a good practice and one that has been advocated for many years, and I hope you people will support it.

Senator MCKEEN: Mr. Chairman, I think this matter was put under the other act originally as a matter of control, in an effort to discourage the export of power from this country. The new Energy Board will have direct control, not by taxation but by permit. I think with the coming into being of the Energy Board, it will solidify something that may be desirable to do otherwise, and the Government will not be able to make any change unless it is done when Parliament is in session, by way of amendment to the statute.

Mr. LABARGE: I am not sure, senator—perhaps the people from industry will know—but it seems to me the permit system did operate as a control.

The CHAIRMAN: The question of control is provided for in the present statute—

Senator MCKEEN: I know that.

The CHAIRMAN:—by the licensing, and by requirements that have to be met in order to get a license. So, the tax feature is separate and distinct from the license.

Mr. IRWIN: May I point out that the Minister of Finance regards this as a revenue-producing tax, and, as Mr. Labarge has said, it was felt that it should be put in a taxing statute.

Senator BRUNT: Mr. Irwin, no matter what situation arises, if this bill passes in its present form you will not be able to make any change in the rate of duty unless Parliament is sitting and an amendment is passed? That is the situation, no matter what emergency arises? Is that correct.

Mr. IRWIN: That is correct.

Senator MACDONALD: Is there any tax arrangement than can be changed when Parliament is not sitting?

The CHAIRMAN: Yes: There is a wide range given under the Customs Tariff.

Senator MACDONALD: Can the tax be increased?

The CHAIRMAN: It can go down, and that is what industry is mainly concerned with.

Senator MACDONALD: The rate can go down.

Senator CROLL: As a matter of fact, if an emergency arises and it becomes necessary to change the rate under the statute, if the Government wants to meet that situation it can do it by saying as of a certain date we will change the rate and have Parliament ratify it. But that ratification is by Parliament.

Senator MACDONALD: The change can be downwards but not upwards.

Senator CROLL: I would presume it would be downward.

The CHAIRMAN: This is not a customs duty. If it comes into the Excise Tax Act it must be imposed at a rate set out here, without authority in anybody to change it except Parliament.

Senator MACDONALD: Is there any excise tariff than can be increased, except by Parliament?

The CHAIRMAN: No.

Senator MACDONALD: Then do I understand that under this present act, Exportation of Power and Fluids and Importation of Gas Act, the rates can be increased by order in council?

Senator BRUNT: But this is not an excise tax.

Mr. LABARGE: Under the law as it exists in the act from which we have taken this, there is a maximum set out in the statute, within which the Governor in Council can set whatever rate he wants to, upwards or downwards.

The CHAIRMAN: A section in the present statute gives the Governor in Council authority to impose a tax not exceeding \$10 per horsepower per annum. In fact, the rate of duty is the rate which has been provided in this bill.

Senator HUGESSEN: May I ask a question? You say, Mr. Chairman, that the rate now proposed to be imposed by section 8 is the rate that is now charged under the order in council?

The CHAIRMAN: That is right.

Senator HUGESSEN: Can the officials tell us whether there have been many occasions on which there have been exceptions to that general rate under special circumstances?

The CHAIRMAN: Mr. Power says "No".

Senator HUGESSEN: How long since it has been imposed?

The CHAIRMAN: 1925.

Senator HUGESSEN: So far as you know, there have been no occasions on which the Governor in Council, by special order in council, has modified the existing rate?

Mr. POWER: The rate has been the same since 1925.

Senator HUGESSEN: Without exception?

Mr. POWER: There was an exception, yes, on a long-term contract. There was one in the 1907 contract.

Senator CROLL: Was that taken care of when the 1925 act was passed? Was it recognized then?

Mr. POWER: I don't know if it was recognized in the act or not, but the tax was not imposed on one license until 1950.

Senator CROLL: Because of the 1907 agreement?

Mr. POWER: Yes.

Senator CROLL: Which that recognized?

Mr. POWER: Yes.

Senator CROLL: So, there wasn't an exception?

Senator ISNOR: Mr. Chairman, may I ask whether this one licence you speak of is in effect at the present time?

Mr. POWER: Yes, and they are paying tax at the present time.

Senator ISNOR: In what province is that?

Mr. POWER: In Ontario.

Senator ISNOR: I want to ask Mr. Power and Mr. Laberge, Mr. Chairman, or any one of the witnesses, a question in respect to provincial power commissions like the Nova Scotia Power Commission and the New Brunswick Power Commission. I understand there is likely to be an interchange of power and energy between the province of New Brunswick and the State of Maine. Would the province be treated in a similar manner as an individual.

Mr. POWER: Yes, they are now.

Senator ISNOR: They have made application in connection with the exportation of—

Mr. POWER: They have a licence now to export—that is, the New Brunswick Power Commission.

Senator ISNOR: And they are are exporting at the present time?

Mr. POWER: Yes.

Senator HUGESSEN: At the existing rate.

Mr. POWER: That is right.

Senator ISNOR: And they have been advised as to the change?

Mr. POWER: There is no change in the tax, senator.

Senator ISNOR: Which is right? One says there is, and one says there is not.

Mr. POWER: There is no change.

Senator BRUNT: There is a change in how it is done. It is done here by statute, and it was done previously by Order in Council.

Senator McKEEN: Are we going to hear from the power people themselves?

The CHAIRMAN: Yes, we are going to hear from them now.

Senator CRERAR: I would like to make an observation. I support this change. I think that Parliament should levy the tax. I agree wholly with the arguments put forward in that respect—they are based on a sound principle—but I would like to know just how that jibes with the principle that we give the Government, or the National Revenue Department, power to fix valuations for duty purposes, which is a complete variation from this—

The CHAIRMAN: Well, that is an observation.

Senator CRERAR: Perhaps Senator Brunt can explain that.

The CHAIRMAN: Let us not get into that. Let us stay with the bill. We have representatives of industry here. We have Mr. A. Bruce Robertson, Q.C., who is the Vice-President of British Columbia Electric Company Limited, Mr. W. C. Mainwaring, President of the Peace River Power Development Company Limited, Mr. C. H. B. Frere, General Solicitor of Consolidated Mining and Smelting Company of Canada, and Mr. R. C. Anderson, President and General Manager, West Kootenay Power and Light Company Limited.

Will whoever of those gentlemen who is going to be the spokesman come forward? We have had a brief submitted by Consolidated Mining and Smelting Company of Canada, and by British Columbia Electric Company Limited and Peace River Power Development Company Limited. Those briefs have not yet been distributed, but they will be in a moment.

We now have before us Mr. Robertson, who is the Vice-President of British Columbia Electric Company Limited, and Mr. Mainwaring, who is the President of Peace River Power Development Company Limited. Mr. Robertson, are you going to make the representations first?

Mr. A. BRUCE ROBERTSON (*Vice-President and General Counsel, British Columbia Electric Limited*): If I may, Mr. Chairman, and I will be followed by Mr. Mainwaring.

Mr. Chairman, the section in which we are particularly interested in Bill C-47 is section 8 which, as you have already stated, will substitute for the present tax under the Exportation of Power and Fluids and Importation of Gas Act now imposed by Order in Council a statutory tax at the same rate that we have been paying for a number of years. It has always been thought in the trade that the power to tax was originally given as a means of discouraging the export of electricity at a time when that was very unpopular in the country. The need for any power to discourage exportation by taxation will completely disappear if the new National Energy Board bill is passed by Parliament. That act will provide for the establishment of a national energy board, and it will prohibit the construction of any international power line—meaning a line that carries electricity for export—without a certificate granted by the board, and it will prohibit the operation of an international power line without a certificate, and it will prohibit the exportation of any electric power without a certificate. The bill lays down the various things which are to be considered when applications are made for certificates, and the interest of the public and the country, generally, is one of those considerations. As I said, the need for taxation to prohibit export disappears entirely.

It is quite true that the tax has been in force for a number of years, and all efforts we have made to get the Government to remove it have failed. There are, however, some new and economic considerations which I want to bring to the attention of the committee at this time as a reason why the tax should not be solidified or crystallized in statutory form in place of the form which has been in effect in the past. Before I get to those reasons I would like to outline briefly what the interest of the presently operating utilities in regard to the tax has been.

My own company, the British Columbia Electric Company, generates and distributes energy in British Columbia, and in the greater Vancouver and greater Victoria areas particularly, as well as distributing gas and operating a transit system. We are a member of the Northwest Power Pool of the United States, which has a grid in Washington, Oregon, and three other of the states of the union.

Senator ISNOR: That is a privately-owned company, is it?

Mr. ROBERTSON: The B. C. Electric is a privately-owned company, but the Northwest Power Pool is an informal group of publicly and privately-owned utilities. Our physical connection with that pool—

Senator McKEEN: Is the British Columbia Power Commission in that pool, or integrated—

Mr. ROBERTSON: Yes, the British Columbia Power Commission is, I believe, a member of the pool. It is interconnected through our system with it.

Senator MACDONALD: What is that commission?

Mr. ROBERTSON: It is a public power commission, like the Ontario-Hydro. Our physical interconnection is with that of the Bonneville Power Administration, which is one of the members of the pool, and the reasons which lie behind that interconnection, and which the physical interconnection supports, are principally, first of all, to guard against emergencies. If there is a breakdown on one system the energy can immediately be supplied from another

system. It makes possible the sales and purchases of dump energy between different members of the pool. We, as I mentioned a moment ago, can wheel power for the British Columbia Power Commission on Vancouver Island to and from the United States; and also the interconnection can be used for something that is called in the trade "storing water". What "storing water" means is this, that when one utility has plenty of water and it is spilling over the dam, and another utility has its reservoirs down low, the first utility will deliver its excess energy beyond its own needs to the second utility. The second utility then generates less energy and allows the water in its reservoirs to rise, and when the second utility's reservoirs are full or nearly full and the first utility's reservoirs are down, the second utility generates excess energy and returns it to the first utility.

Senator THORVALDSON: Mr. Robertson, is that caused by seasonal changes, weather conditions, and so on?

Mr. ROBERTSON: Two things: weather conditions and different characteristics. For instance characteristics of the weather generally and the run-off periods in the part of our system to the west of the Coast Range are different from the characteristics east of the Coast Range.

Senator EULER: Is it international in its nature?

Mr. ROBERTSON: Yes.

Senator BRUNT: Mr. Robertson, is there any exchange of money in a transaction such as that?

Mr. ROBERTSON: Ordinarily in the case of storing water of that kind there is no exchange of money. Also, the operation ordinarily is something that occurs only in one season, that is a twelve-month power period running from mid-summer to mid-summer.

Senator MACDONALD: I suppose each utility puts in an account to the other and over the year they approximately balance, is that correct?

Mr. ROBERTSON: That is right. Within the season the utility which has borrowed, as it were, returns the power to the other utility and the thing usually balances out. There is a provision for payment if one utility is unable to return within the year what it has borrowed, but normally that is not invoked.

Senator MACDONALD: It is a straight business transaction?

Mr. ROBERTSON: Yes. It is a loan without any money being exchanged.

Senator WALL: Mr. Robertson, if there is this interchange of power from Canada to the United States and vice versa, does the United States impose any tax on the power coming to Canada?

Mr. ROBERTSON: No.

Senator WALL: None at all?

Mr. ROBERTSON: No.

Senator WALL: We are the only ones guilty of that now?

Mr. ROBERTSON: Yes. I would like to know if anybody else in the industry would contradict me on this. I think I am right.

Senator CROLL: What you are saying is that in the storing of the water you have an annual account rather than a monthly one?

Mr. ROBERTSON: Yes.

The CHAIRMAN: And they do it by physical borrowing and repayment.

Senator CROLL: They trust each other for 12 months.

Senator REID: You have just stated that no money passes. Are you taxed when the electricity passes?

Mr. ROBERTSON: Yes. That is one of the things that makes the tax so distasteful, that although no money of any kind passes we have to pay a tax of three-tenths of a mill for each kilowatt hour that goes out of Canada.

Senator CROLL: You have now said no money passes. No money is passing because of a private arrangement that you have, but in the ordinary sense certain credits and debits are passing.

Mr. ROBERTSON: Credits and debits are passing in kilowatt hours.

Senator CROLL: Yes, but when you use the term money you mean you are not paying on the nail at that particular time but you do charge them for it and get paid at a later time.

Mr. ROBERTSON: No, no.

Senator CROLL: Then let us get that straight.

Mr. ROBERTSON: If I lend this book here to Mr. Mainwaring and he returns it to me later on, no money passes between us. I give him a book and he gives me back a book.

Senator CROLL: Yes, but if four pages are gone out of the book, then he pays you for the four pages that he did not return.

Mr. ROBERTSON: Yes, if he did not return them.

The CHAIRMAN: It is like borrowing a bowl of sugar from your neighbour. You take a bowl of sugar back.

Senator KINLEY: What do you do with what you get? You make a profit from it.

Mr. ROBERTSON: No, we just balance out.

Senator KINLEY: You borrow from him and you use it.

Mr. ROBERTSON: Then we return a corresponding amount of power to him and the net result is we have nothing.

Senator McKEEN: What is the main purpose of making this exchange?

Mr. ROBERTSON: The main purpose is to help out an area at a time when it is less fortunate in its rainfall or run-off than another area which has an excess of water.

Senator McKEEN: You cannot store the electricity and if you let this water go then it is gone. What you do is to try and save that electricity by using it, by lending it?

Mr. ROBERTSON: That is right.

Senator McKEEN: So it is an economic gain.

Senator HAIG: I understand you are asking us to strike out a taxing provision in the statute.

Senator BRUNT: He has not done so yet.

Senator HAIG: That is what you are coming to. You are asking us to strike out one of the taxing provision. Don't you think that you should have asked the Government first to strike it out? Don't you think the House of Commons should have been asked to strike it out?

Mr. ROBERTSON: Yes, I think that would have been the better thing, but—

Senator HAIG: That is the usual procedure.

The CHAIRMAN: Let him make his answer.

Mr. ROBERTSON: We have been making representations over the years to the department concerned without any success. We did not know of this proposal to crystalize the thing in a statutory form until after it passed the House of Commons. This bill did not reach us in Vancouver until it passed,

so we had no opportunity to make representations before the House of Commons at the stage you have mentioned. I quite agree that, had we known the intention, we certainly would have made such representations.

Senator HUGESSEN: I do not imagine this bill went to a standing committee in the House of Commons anyway.

The CHAIRMAN: No.

Senator HUGESSEN: So they could not have offered an amendment there.

Senator MACDONALD: There has been time to do something about it since the budget was brought down in April, and the bill passed the House of Commons a week ago.

Senator BRUNT: On May 19.

Senator MACDONALD: So there has been quite a considerable time in which representations could have been made to the Government if not to a committee.

Senator BRUNT: The bill was never referred to committee.

Senator MACDONALD: Representations could have been made to the Government.

The CHAIRMAN: The point is that this group asked for the privilege of coming before this committee and we are according it that privilege.

Senator HAIG: Perhaps I am the only one who is complaining but I think you are putting us in an awkward position. You say that some time ago you consulted the Government and they refused to do certain things and they brought in legislation but you did not appear. You say, "We didn't know about it," although you had two or three months to learn about it. I don't think you should come and ask us to interfere with a revenue matter. The House of Commons deals with that.

The CHAIRMAN: It is not interfering with revenue.

Senator REID: Let the witness make his case.

The CHAIRMAN: Yes. Go ahead, Mr. Robertson.

Senator CAMPBELL: Could we let the witness proceed and make his presentation? He has a very good brief here and we have only heard part of it.

The CHAIRMAN: Yes. It is not a long presentation and I think the committee would rather hear him and then ask questions after.

Some hon. SENATORS: Yes.

Mr. ROBERTSON: Mr. Chairman, our objection to the utilization of the legislation in this form, or the tax in this form, is on two grounds. One, is a general matter of principle; and, secondly, on a question of detail. I am going to speak first on the question of detail.

The tax on utilities, such as the B.C. Electric, which has long been in operation, amounts to a very substantial sum. In the past ten years it has amounted to seven per cent of the gross revenue that we have derived through export sales. In addition to that, as I have already indicated, the tax is payable on stored water, either when the electricity is first sent out or, if we are the storers, when we return it to the other people, even though no money passes. Third, the tax has a very peculiar incidence in this respect. When two systems are physically interconnected, at times when there is no intentional or scheduled transmission of energy in either direction and the system is doing what is called "floating", then there are surges of electricity back and forward across the inter-connecting point, which in this case is the international boundary, all the time as load comes on one system and the pressure drops there, and a bit comes through, and it goes back again.

Just as a matter of interest, there is a chart of nine hours on May 1st. There are fluctuations, 20, 30, 40, in each direction every hour. The ones above

the line are export, the ones below, import. Over the year the whole thing equals itself out, so that there is no net export or import. However, the meters are ratchetted so that they will record only the outgoing quantities, and the result to us is that we pay a tax on every kilowatt hour that goes out even though it may have come back ten minutes later and there is no net export at all.

Senator MACDONALD: From the same source?

Mr. ROBERTSON: Yes, on the same interconnection.

Senator MACDONALD: But the power comes back by a different source?

Mr. ROBERTSON: It goes back on the line on which it went out.

Now, that does not bulk very large. It costs us on an average about \$300 a month for something for which we have no power exported or imported at all. I am told that the cost to one of the public utilities in Canada is \$4,000 a month, merely by the fact that the two systems are interconnected. That is one of the details we don't like in having this put in statutory form.

Now I come to the larger question which relates to the Peace River Power Development Company. That is a comparatively new company, which at the cost of several millions of dollars is busy investigating the power potentials of the Peace River. Under an agreement with the province of British Columbia the company must file by the end of this year with the provincial Government a report showing whether or not the development of the Peace River for hydro-electric purposes is economically feasible. In its calculations the company will of course have to include any tax which it will have to pay on the export of energy. Now, the development will be a very large one. The two initial dam sites which are being considered will ultimately produce about 3 million kilowatts; and there are other dam sites downstream in British Columbia alone which can produce an additional one million kilowatts. The first production, if the scheme goes ahead, will be in about 1966. In order to make it economical it will be necessary that the initial generating units to be installed be of a capacity of 500,000 kilowatts or more. You could not justify the cost of the dam and the cost of the transmission line without putting in at least 500,000 kilowatts of capacity at the very start and selling that amount of energy. The principal Canadian customers for the Peace River Power energy will be the B.C. Electric and the British Columbia Power Commission. But by 1966 they will not be in a position to absorb or digest the whole of that 500,000 kilowatts from the start; their annual increase, the aggregate of the two, will be considerably less than that. Therefore, Peace River Power has to look elsewhere for a customer to buy that energy. Now, forecasts made in the United States show that in about the same year, 1966, there is going to be a shortage of hydro-generated energy in the Pacific Northwest, and that will afford a natural market for the excess power from Peace River which will not be required for domestic purposes, and it will of course be sold, that excess power, only subject to recapture for Canadian purposes when it is required for domestic uses. That is a matter that will be taken care of under the National Energy Board Act. It is quite possible that at that time, 1966, and in the years immediately following, the States will require more than our surplus out of the 500,000 kilowatts. If they should agree to buy a greater quantity it will mean that Peace River Power's initial development or installation will be bigger, and that will spread the cost of the dam and transmission line over a greater number of kilowatt hours and bring down this cost of production generally, and that of course will redound to the benefit of Canadian consumers, because as the price is lowered in that way Canadians will get just as much advantage out of it as the Americans. The same considerations are true of subsequent installations. As it becomes necessary to increase from the 500,000 kilowatts to the ultimate 3 million kilowatts this energy will have to be added in big chunks, and cannot be absorbed in one or two, perhaps three years by the local utilities.

Now, that means that the sale of energy for export is a very important part of this project. The tax, if it is in force in respect of the energy which is exported, will represent a very substantial part of the revenue the company will get. I cannot tell you what the price of the energy will be because the investigations have not reached the point where that can be stated, but I can give you some examples of prices at which electricity is sold in Canada now, partly for export and partly locally, and you can get an idea of the selling price. In 1957 the Ontario Hydro Electric Commission, on sales to companies under direct contract—and some of that energy was hydro and some thermal generated—the price averaged 4.6 mills per kilowatt hour. In the same year, Hydro Quebec's sales for export to the United States averaged a price of 1.61 mills. The B.C. Electric is selling now to some industrial customers at an average of 3.6 mills. The Bonneville Power administration in the United States is selling to distributors very large blocks of energy at 2.5 mills. So that one can safely assume that the price at which Peace River Power will be able to sell for export or domestically will be somewhere in the range of 5 mills, and will not be able to go much over that.

Now, a tax of three one-hundredths of one cent per kilowatt hour, does not sound very much but when you turn that into three-tenths of a mill it is the equivalent of a tax of 6 per cent on 5 mills, so that you can readily see that this tax can represent 6 per cent of the gross revenue that the company can hope to get out of its exports.

Now, 6 per cent of your gross revenue going in an expense of that kind can be something that can make the entire project unfeasible. If you put it in other terms, it represents an earning capacity of many millions of dollars. I won't try to determine it because we are dealing with an unknown quantity in this tax.

Now, while this can have an effect on the sales for export it can have another effect, and a very important effect on the question of storage. I told you that the usual practice is that storage transactions are completed within one season, that is to say the energy that is lent is returned in the same year. The Peace River power project plans a development of a tremendous reservoir in the Rocky Mountain trench, a reservoir that is going to take anywhere from six to twenty years to fill up, and its storage position will be entirely different from that of any other utility we know of. It has been estimated that the storage will be about 15 million acre-feet if a storage dam is built at Mica Creek on the Columbia River. The storage potential of the Peace River power reservoir will be about 100 million acre-feet, nearly seven times as large. That means Peace River Power will be able to give to the Americans something that I have seen referred to as "cold storage", that is to say, Peace River power will be able to take energy from the United States when they have a surplus and—instead of returning it within the year—will be able to hold it for a number of years, say five years or even as much as seven years, and then return it at the later period.

Now, that is going to involve something that we do not have in the ordinary transaction and that is a money payment, and the calculations which are presently being made both in the United States and in Canada are using a figure not yet officially settled upon of one mill per kilowatt hour as a charge for storage. Now, if the tax is $\frac{3}{10}$ of a mill per kilowatt hour, that means that 30 per cent of the gross revenue derivable from this storage transaction would go in tax; and that, too, could have a most serious effect upon the feasibility of the entire project.

So far I have been talking in terms of Peace River alone, but almost everything that I have said can apply equally to the Columbia River.

If the Columbia River is developed—and it is hoped it will be—it is altogether probable that, in order to make it economically feasible, the developers will have to sell some of their energy in the initial stages to the United States: and there again the imposition of this export tax may be what makes all the difference between a project that can be financed reasonably and one that cannot be financed reasonably. And incidentally, I have not mentioned finance, but of course one of the most important things in putting a project like the Peace River together is the raising of the tremendous sums of money that will be required, and an item like this tax, which must appear in the forecast, is something that could be very frightening to the people who have to find the money.

Speaking of the Columbia, I would like to give you a little more information. It is hoped that the development of the two rivers, the Peace and the Columbia, can to a very considerable extent be co-ordinated, so that we can take advantage of the characteristics in both rivers which complement one another—seasonal flows in the Peace which do not correspond with the seasonal flows in the Columbia promoting the same types of interchange and storage that I have mentioned previously.

There are going to be three developments if these things proceed together. There is going to be the Canadian development on the upper Columbia, the American development on the lower Columbia, and the development of the Peace, and there presents itself a wonderful opportunity to develop all three so as to get the greatest benefits out of the water powers in the Pacific coast provinces and states; and it is my submission that everything should be done to encourage this development and nothing should be done to discourage it.

Now, I come back to my question of principle. Surplus hydro energy is an ideal subject for export. It does not deplete our resources in any way. Water that is not used to generate surplus energy goes down the river to the sea and is lost forever. Exported energy can produce large sums in United States dollars and those sums can be a very important factor in the balance of trade between the two countries.

Yet, for some strange reason, for a number of years electric power has been singled out as the one resource commodity, at least the only one I have been able to learn of, that has been chosen for tax purposes. Taxes are not put on the lumber we export or the oil we are sending out of the country, or our canned salmon, on zinc, or natural gas, or other things that we are anxious to export. We are an exporting nation, and electric power is an ideal subject to export because it depletes nothing, but it will be made more difficult to export by the imposition of an export tax, and I expect for the reason that I have mentioned that all the control of exports I have not been able to imagine.

Now, the answer to that may be, "Well, that is true enough, but we are getting this revenue now and we do not want to lose it." Well, I think there are two replies to make to that, and the first is, here is an unsound tax which is now up for consideration in Parliament, and now is a time when we have an opportunity to look at it, to correct an unsound situation. The second ground of reply is that there are entirely new circumstances now which have not existed before, and that is the proposed development of the Peace and Columbia Rivers.

And it is my submission that the economic circumstances arising out of those projects must outweigh or should outweigh any desire not to lose a bit of revenue which has been enjoyed in the past. Quite apart from the effect on the companies themselves, if this project goes ahead, or if the Peace River power project goes ahead, there will be tremendous expenditures on capital

goods of all kinds, on labour, for much labour will be used, and the income which will result will be taxable and should produce very much more than these export taxes will produce.

My submission to the committee therefore is that section 2 of the bill, which enacts Part II of the Excise Tax Act, should not be passed.

The effect of that will be to leave matters where they stand today; that is, that there is now a tax imposed under the Exportation of Power and Fluids and Importation of Gas Act, which has stood for many years, regulation; and that, if the tax is allowed to stand in that form, the Government will be in a position, after it has had an opportunity to consider these various things which I have brought forward, to give any relief which it thinks it should give because of these situations in the Columbia River and the Peace River.

That, Mr. Chairman, completes what I have to say. I will be glad to answer any questions.

Senator CROLL: What revenue do we receive under this legislation?

Mr. ROBERTSON: About \$1 million a year, I am told.

Senator CROLL: Overall?

Mr. ROBERTSON: Yes.

Senator MACDONALD: What does that revenue represent?

Mr. ROBERTSON: The revenue from export tax on electricity.

Senator CRERAR: I would like to ask the witness a few questions.

This pooling arrangement that you speak of as between the Northwestern States and the coast of British Columbia, that is a voluntary arrangement?

Mr. ROBERTSON: Yes.

Senator CRERAR: Has that international sanction?

Mr. ROBERTSON: There is no treaty, but the Bonneville Power Administration, before they install facilities to make a connection, had under the American law, to get what is called a presidential permit, and that is attached to the contract we have for the maintenance of this interconnection. We on our part, before we could build that, had to apply under the Exportation of Power and Fluids and Importation of Gas Act for a license to cover the construction of these facilities, and we have to get an annual license.

Senator CRERAR: That is a local arrangement of mutual benefits on both sides of the boundary.

Mr. ROBERTSON: Yes.

Senator CRERAR: You spoke also of the development on the Peace River, and you use that as an argument to support your view on this legislation that there would be made available large quantities of power for export, which would bring great collateral benefit to the country.

I recall that this question came up some 40 years ago. If my memory serves me correctly, this present act was passed during the time of the Borden Government.

Mr. ROBERTSON: In 1907.

Senator CRERAR: Then it was in Sir Wilfrid's time. But there was a proposal to develop power on the Carrier Rapids on the Ottawa River between here and Montreal. That was made contingent on the consent to export power to the United States. It was turned down ultimately for the reason that if power was exported to the United States it was felt it could not be recaptured; that is, industries would develop in the United States based on that power, and that if any effort were made to recapture it at some later date when it might be required in Canada, it would bring up international complications which no one would wish to face. I think there is a very valid point in that.

At the present time we have vast power resources in British Columbia. I haven't any doubt that this development could take place, and you could sell 500,000 or maybe a million kilowatt hours to the United States. But that envisages a different kind of arrangement from what you have in your present pooling arrangement on the Pacific coast. This envisages a continuous export of power, and that could never be recaptured for Canadian use, if it were needed 30, 40 or 50 years hence.

That, to my mind, is the strongest objection there is to the point that you are advocating.

Mr. ROBERTSON: May I deal with those points, sir?

Senator CRERAR: Yes, certainly.

Mr. ROBERTSON: Historically, a strong fear did grow up around 1907 and subsequent years that power exported to the United States could not be recaptured. The reason for that was that the power was exported from Ontario where they had a 25 cycle system, to some communities in the United States which set up a 25 cycle system for the domestic use of that power, although the surrounding areas were using a different cycle. Representations were made when Canada tried to recapture, that it was going to result in the ruination of these places which had grown up by reason of this particular cycle of exported electricity.

That is a condition which I think will not be repeated, because in the Pacific Northwest everybody is on 60 cycles.

Senator CRERAR: But Mr. Robertson, assuming you can go ahead with your development, that you get permission from the Energy Board, or the proper authority, to export 500,000 kilowatt hours to Washington, Idaho or some other part of the United States, do you think that that power can in the future ever be recaptured for Canadian needs if such a need were to arise?

Mr. ROBERTSON: Yes, sir.

Senator CRERAR: In what way? Would there not have to be an international treaty?

Mr. ROBERTSON: No sir. Under section 83: first of all, in our application for license, the board has to be satisfied that the quantity of power to be exported does not exceed the surplus remaining after due allowance has been made for the reasonable, foreseeable requirement for use in Canada. Under another section the license must state the term for which it may be granted, and it will not and can not exceed 25 years.

Before the Americans make any capital expenditures in reliance upon that energy, they will know that the term is limited to the number of years set out in the license, and they will not take it on the expectation that it will be for an unlimited period.

Senator CRERAR: Would that not require something in the nature of an international treaty?

Mr. ROBERTSON: I don't think so. Let us suppose the Puget Sound Power and Light Company were to buy from us—

The CHAIRMAN: Just a minute. This is all very interesting, whether in some future operation an international treaty would be required to do thus and so, but I do not think, even if the witness expressed an opinion, it would be of any value for our consideration of this bill.

Senator CRERAR: Well, it would have had a very great value 40 years ago, believe me.

The CHAIRMAN: Not in the consideration of this bill.

Senator CRERAR: Not in regard to this bill, but in regard to the principle on which the bill is based.

The CHAIRMAN: There is only one point we are considering today, and that is, as I see it, whether this section in the excise tax amendments shall or shall not pass. We are not discussing, except in a very broad way, the question of the value of the export of power, or any of those questions, or how it should be done. You have a provision for tax in the existing law, and it is now proposed to incorporate it into the Excise Tax Act and take it out of the existing law. As I see it, in any decision we make we cannot express an opinion on whether or not there should be a tax. The only question before us is: Are we going to pass this section which, under the Excise Tax Act, imposes a specific rate of duty on the export of power, and are we going to repeal the section in the existing law which provides another method of imposing the same tax?

Senator MACDONALD: Mr. Chairman, the witness gave his reason for not passing the law, and the reason was that they expect to export a great deal of power to the United States in the future. That is the premise on which he submitted his argument. Now Senator Crerar asks: Well, are you allowed to? We want to be satisfied that there is a possibility of the exportation of power to the United States. Senator Crerar said you would have to have a treaty.

The CHAIRMAN: What I am saying is this, that any thing this witness said directed to the question of whether or not there should be a tax was completely beside the question which is before us. But, he had come here to make his presentation and I thought he should present it, but it is not a part of our consideration. We are not to determine whether or not there should be a tax. Parliament has a tax in force at the present time. Our only function is to decide whether we are going to permit the transfer of it from one statute to another statute.

Senator CRERAR: With all due respect to you, Mr. Chairman, you are putting too narrow an interpretation on this.

The CHAIRMAN: Well, I am in the hands of the committee.

Senator CRERAR: I am opposed to this change because I think it is much better to leave it under the existing legislation.

Senator BRUNT: Hear, hear.

Senator CRERAR: Then you have a better chance of reviewing all the conditions that arise. I think, definitely, we are justified in considering the possible consequences that might flow from this in the future.

Senator LEONARD: Might I ask Mr. Robertson what the situation is with respect to endeavouring to pass on this tax to the buyer in the United States?

Mr. ROBERTSON: We cannot get anywhere on that, senator. If the buyer would pay more we would take his money ourselves.

Senator LEONARD: If the tax comes off—this is just an hypothesis—your price still remains the same?

Mr. ROBERTSON: Yes, that is right. We can get no more than what the Americans are prepared to pay for it.

Senator LEONARD: Thank you.

Senator LAMBERT: Referring to the point that Senator Crerar made, or raised, would the adoption of this part in this bill prejudice, to a certain extent, at least, the case which the witness is trying to present to this committee? Personally, I think that the point he has been clearly making here is that it will interfere with the potential exchange of trade between these two countries, and I would be somewhat concerned about the prejudicial effect now in that connection if this part were included in this bill. For that reason I think it should be considered apart from it.

Senator CROLL: My only observation, in regard to Senator Crerar's saying he would rather leave it as it is, is that the present act—and it may be the Exportation of Power and Fluids and Importation of Gas Act—is being repealed except section 4.

Mr. ROBERTSON: Yes, and that is the section.

Senator CAMPBELL: Mr. Robertson, Senator Leonard asked if you were able to pass on these charges. What would be the total tax so far as the British Columbia Electric Company is concerned?

Mr. ROBERTSON: It varies very much.

Senator CAMPBELL: In dollars?

Mr. ROBERTSON: We have not done any substantial exporting since 1953. The only figure I have on that is that in November, 1953 we paid \$16,100.

Senator CAMPBELL: I understand that Ontario pays about 95 to 99 per cent of this tax of \$1 million. Is that so?

Mr. ROBERTSON: I have not the figures, but I know that Quebec pays a substantial tax. I do not know how it compares with Ontario.

Senator CAMPBELL: Your amount of \$16,000 is really negligible.

Mr. ROBERTSON: That was a month.

The CHAIRMAN: If there are no other questions—

Senator HUGESSEN: Might I ask the witness a question, Mr. Chairman? In regard to the first matter he presented he rather surprised me when he talked about the fact of there being an intercommunication across the border by means of a line which resulted in surges of power back and forth between the two countries. I suppose you might liken it to two tides which are side by side, and the power flows from one side to the other, and vice versa. He said that when that happens—when there is a surge from Canada to the United States—the power that goes out, even though it comes back 10 minutes or an hour later, is considered to be exported from Canada, and they pay the tax on it.

The CHAIRMAN: That is right.

Senator HUGESSEN: I wonder if that is really an export of power within the meaning of this section that we have before us. I would have thought that a person who exported electric power must have performed some sort of positive action. I am wondering if that situation about which he complains could not be cured by the Governor General in Council under section 9 saying that it is not really export at all, but a surge back and forth. Can you get some help from that if we pass sections 8 and 9?

Mr. ROBERTSON: Well, sir, we have made representations and complaints over the years in correspondence with Mr. Power's branch. Their answer has been that they have had rulings from the Department of Justice that these are exports within the meaning of the act, and that they are going to collect taxes from us.

Senator HUGESSEN: That is a rather strained interpretation of the act.

Mr. ROBERTSON: We have urged exactly what you have suggested, but it has not prevailed with the department.

The CHAIRMAN: Mr. Mainwaring is here. Have you anything to add, Mr. Mainwaring?

Mr. W. C. MAINWARING (*President, Peace River Power Development Company Limited*): Yes, Mr. Chairman and gentlemen. First of all, I would like to endorse everything that Mr. Robertson has said to you in so far as my company—that is, the Peace River Power Development Company Limited—is concerned.

This is a new company which was organized for the purpose of, first of all, investigating the vast power resources of the Peace River, which is one of the

greatest power rivers of the world, and ascertaining whether or not it is feasible in the northern part of British Columbia to harness this river, create a lake some 250 miles long, and store the tremendous amount of water which, as Mr. Robertson mentioned, is in excess of 100 million acre-feet. There is not a storage basin like that anywhere in North America. If the result of our studies satisfies us that it is feasible, then we intend to proceed with the immediate development of that river. During the fall and winter of 1956 through all of 1957 and 1958, and now through 1959, we have had an army of engineers and economists who, compiling this report which, by agreement with the provincial Government of British Columbia, we must file with them on or before December 31 of this year. It will surprise you when I tell you that this feasibility and engineering report, when we complete it by the end of this year, will cost us \$5,300,000. We are well advanced with our studies and we will make a report on time. If the report is satisfactory, and we have every reason to believe at the present time that it will be, we will be able to show that this is an economical project. We will have to proceed with our initial financing in the early part of next year, 1960. Our initial financing will be an amount between \$400 million and \$500 million. Our first development will be approximately 500,000 kilowatts.

As Mr. Robertson mentioned, this river at the one point we are going to develop first has a potential of 3 million kilowatts, and it is expected that all of that will be developed over a period of 10 years. It is expected that the total cost of this development when we have harnessed these 3 million kilowatts, or if you would prefer me to state it in horsepower, 4 million horsepower,—that when we have developed all of that power and built the necessary transmission lines to the lower mainland area of British Columbia, will represent an investment of approximately \$1 billion. It is hardly necessary to tell you what that will do in the way of employment in that north country.

During the heaviest years of our construction we will be employing some 5,000 people. We are opening up a new frontier. We are opening up completely new forestry resources, and what appears to be a country tremendously rich in mineral resources. The tax which is in existence at the present time is something that is causing us great concern, and we would naturally have approached the Government to eliminate the tax on the amount of the power that we found it necessary to export to make our project feasible.

We are thinking in terms of an export rate for this energy at the border of approximately 5 mills, and this means that we would have to pay, at the rate of taxation provided, a tax of 6 per cent. I am not going to say that it would kill our project but I can tell you that it could have a very serious effect on our being able to finance it at all.

Senator ASELTINE: Yes, but we are not dealing with the doing away of this tax now.

Mr. MAINWARING: I appreciate that.

The CHAIRMAN: These witnesses have come a long distance and I think we should hear them. It is not taking very long.

Mr. MAINWARING: I was just going to answer part of Senator Crerar's previous question. I was going to follow up and say that if the tax remains in its present status we can approach the Government of Canada and we can show them that this tax would have a serious effect on our being able to go ahead with this project, but if it becomes statutory as it would if it goes into the Excise Tax Act, then it would only be by an act of Parliament that we could ever get it changed. If it remains in its present state we are in a position to deal with it. We are in an extremely poor position to deal with it when it becomes statutory.

Senator MACDONALD: You could deal with the Government a lot easier than you could deal with Parliament, in other words?

Mr. MAINWARING: Correct. I would like to make this very important point. Mr. Robertson points out to me that the time factor is the thing that is concerning Peace River Power. We must be able to show financial ability in connection with this project in our report that we have to file before the end of this year. If this becomes statutory we could not possibly deal with it until the next session of Parliament. If it remains as it is we are in a position at any time to place our economic status before the Government and show them whether this tax would be responsible for preventing us from doing our financing and going ahead with the project.

I have been in this business, gentlemen, since 1911. I have been in the utility business continually since that time, and I think the important thing here is that the conditions—and I think we can show this to the Government—that existed years ago when it was necessary to impose this tax in eastern Canada, are completely different to the conditions that exist now in western Canada, in British Columbia, where we are proposing to develop two of the biggest power projects in the world, and where we know we cannot proceed with those projects unless we do export in the earlier stages of development a substantial amount of power.

The distances are great and the two situations are so different that I think we can convince the Government they would be justified in eliminating this tax on the power we have to export. I would point out that only the power that is surplus to Canada is going to be exported and it will bring us millions of dollars.

A gentleman over here asked Mr. Robertson how much tax the B.C. Electric paid. It has been infinitesimal compared to the total amount or roughly \$1 million the Government has collected, but it would be disastrous to a project like Peace River Power where in the earlier stages a considerable proportion of our energy would have to be exported.

Senator EULER: Do you share the fear that Senator Crerar has expressed, that you could not recapture the power?

Mr. MAINWARING: No, I have no fear in that regard whatsoever, for I am satisfied that the contracts will have to be approved by the new National Energy Board where they first have to satisfy themselves that the power is surplus, and they insist on a date just exactly as exists in the case of the West Coast Transmission Agreement to sell power in the United States. It is for a fixed number of years.

The CHAIRMAN: That is for gas.

Senator EULER: It is a contract that terminates?

Mr. MAINWARING: Yes, these contracts under the National Energy Board will have a termination date. There is another feature which relieves me of too much concern, and that is that the United States utilities know that in the next 10 to 25 years they have to provide large sources of thermal power because all hydro energy will be in service. They are planning now for large thermal plants for the future which will use oil or possibly coal or nuclear power for generating electricity. So they have other sources of power they can use to generate electricity. So I personally have no concern over being able to limit these contracts. I would be glad to answer any questions, and I do appreciate the hearing we have had.

The CHAIRMAN: I am going to suggest that as it is now 12.45 we adjourn until 2 o'clock and resume our deliberations at that time.

The committee thereupon adjourned until 2 p.m.

—Upon resuming at 2.10 p.m.

The CHAIRMAN: I will call the meeting to order. We resume the hearing of Bill C-47, to amend the Excise Tax Act. We have several additional witnesses to be heard: Mr. C. H. B. Frere, General Solicitor, The Consolidated Mining and Smelting Company of Canada Limited, and Mr. R. C. Anderson, President and General Manager of the West Kootenay Power and Light Company, Limited.

Senator CROLL: Now that you are making those provisions, Mr. Chairman, may I make a request that you call Mr. Lorne McDonald of the Ontario Hydro?

The CHAIRMAN: Oh, yes, I have noted him, and also Mr. Lemieux, of the Quebec Hydro. Mr. Frere?

Mr. C. H. B. FRERE (*General Solicitor, The Consolidated Mining and Smelting Company of Canada Limited*): Mr. Chairman, since the committee did not seem disposed this morning to delete section 2 of Bill C-47, we have had to depart from our written text.

I should mention first that the West Kootenay Power and Light Company Limited, of which Mr. Anderson is president and general manager, is a subsidiary of the Consolidated Company, which operates our company's power plants on the Kootenay and Pend-d'Oreille Rivers. The West Kootenay Power and Light Company, Limited, operates those plants as an agent of the Consolidated company.

In principle, our submission is largely a repetition of what—

Senator LEONARD: Mr. Chairman, is the witness under the impression that we have decided not to delete section 2 of the bill?

Mr. FRERE: That was my impression this morning.

Senator LEONARD: Is that correct, Mr. Chairman?

The CHAIRMAN: I do not think we could say that.

Senator LEONARD: I would not like the witness to proceed on that basis.

The CHAIRMAN: I think you should proceed on the basis, Mr. Frere, that we have not made any decision one way or the other with respect to that section.

Senator ASELTINE: We certainly have not.

Senator MACDONALD: On the other hand, I do not think the witness should assume that we are going to.

Senator BRUNT: He has not.

The CHAIRMAN: He is entitled to make his presentation in whatever form he likes. If he feels that he has to buck an obstacle he can approach it from that point of view. If, on the other hand, he feels it is smooth sailing, he can approach it from that point of view. The risk is his, no matter how he presents it.

Senator MACDONALD: We want to hear both sides of the question before making up our minds; we are here with open minds.

Senator GOLDING: Give your evidence on the merits of the case; never mind anything else.

Mr. FRERE: I think you probably know that our company operates mining properties throughout the various parts of Canada and is actively engaged in mining exploration throughout the Dominion. We own chemical and fertilizer plants in Calgary, Alberta, and Trail, British Columbia, and a non-ferrous smelter and refineries at Trail. This year the company will start construction of an iron smelter at Kimberley in British Columbia. All of these plants, smelters and refineries are heavy users of electricity.

The company owns four plants on the Kootenay river and one power plant on the Pend-d'Oreille River, in British Columbia. The West Kootenay Power and Light Company, Limited, which as I mentioned, is a subsidiary, also operates

a plant on the Kootenay River for the sale of electric power to the public. The total generator capacity of these four plants on the Kootenay River is approximately 300,000 kilowatts, and on the Pend-d'Oreille River, at Waneta we have an installed capacity of 180,000 kilowatts; and as Mr. Anderson will explain, there are settings for two generators which, if we had the water, would be able to produce an additional 180,000 kilowatts of power.

The company also has a power site on the Pend-d'Oreille River, known as the "Seven-Mile" site, which has not yet been developed, but has been under engineering investigation. The potential output of the site is 360,000 kilowatts.

Storage water for the regulation of the power plants in the Kootenay River is maintained in Kootenay Lake, in British Columbia, from August to April, after the high water of the spring and early summer. The Waneta plant on the Pend-d'Oreille River, is a run-of-the-river plant, whose water supplies varies with storage regulation upstream in the United States.

The company produces and consumes annually more than 2 billion kilowatt hours of electrical energy in the operation of its mines at Kimberley, Bluebell and Salmo, of its smelters and refineries at Trail, and of its chemical fertilizer plants at Kimberley and Trail. This consumption of electrical energy is practically the same as the quantity consumed in the Greater Vancouver area.

The company submits:

1. That no duty should be imposed on electric power exported from Canada, since no export duties are imposed on coal, oil or natural gas, and consequently that subsection (1) of section 2 of Bill C-47, An Act to Amend the Excise Tax Act, be deleted.

In making that submission I would refer to the statements made this morning regarding the Electricity and Fluid Exportation Act. When the present act was revised in 1955, the Minister of Trade and Commerce at that time explained that while an export tax of three one-hundredths of one cent per kilowatt hour, or roughly \$2.00 per horsepower per annum, had been imposed since 1925 on electricity exported, no tax had even been levied on the export of gas or other fluids, and it was not the policy of the Government to impose one.

The Exportation of Power and Fluids and Importation of Gas Act, as was mentioned this morning, is premised on situations that arose out of the development of the power potential of Niagara Falls in 1907, and crystallized the policy of no firm commitment for the exportation of power, that licences should be on a surplus interruptible basis only, and that they would have to be renewed annually. It may be suspected that the provision for a duty to be imposed on the export of electric power was maintained as part of that policy. In substance, the provisions of the Exportation of Power and Fluids and Importation of Gas Act are being incorporated in Bill C-47 and the proposed Bill C-49, an act for the Establishment of a National Energy Board.

We submit that that policy which originated in 1907 should be modified to take into account the fact that a large hydro-electric development, to be economic, should be able to dispose of its output when the power plant commences operation. Many hydro sites require plants much larger than Canada's immediate requirements, such as the Peace River plant, if it comes into operation, which was mentioned by Mr. Robertson this morning. Those plants are costly, so that every opportunity should be given to the plant operator to dispose of surplus power, without the necessity of paying a duty. Electric power can be transmitted now at much higher voltages, consequently, at much greater distances, than in 1907; but just as in the case of a petroleum or natural gas pipeline, the principal consideration in the construction and operation of a high-voltage transmission line is that sufficient power must

be transported for such length of time and at such a price as will permit the amortization of the costs of construction. So that the situation with power is exactly the same as with gas or with oil.

I might interject here that gas is exported from Alberta to Montana, and gas is also exported from British Columbia into the northwestern United States. The gas from British Columbia is transported by Westcoast Transmission and it enters the pipe line of Pacific Northwest Gas Company and goes to our competitors at Pasco, Washington, where there is a liquid ammonia plant. I might point out that we manufacture liquid ammonia in Calgary and we now are converting our plant at Trail to manufacture it there. So in that process we will use natural gas. You will see, therefore, that gas goes from Canada to the United States to be used in competition with our company's liquid fertilizers. We do not say that that gas should not be exported from Canada, on the other hand we wholly agree that surplus over Canadian requirements should be capable of export.

Senator MACDONALD (*Brantford*): In that case the tax is an advantage to your company?

Mr. FRERE: There is no tax on gas, and that is the very point I would like to make, that natural gas goes into the United States without any tax, yet surplus power cannot be exported by us to the United States without paying a tax on it.

Senator HUGESSEN: So far I have not been made aware of what your interest was. You say your company has a number of power plants and consumes a vast quantity of electric power but you have not said that you export it.

Mr. FRERE: We are not exporting it at the present time because we have not been able to obtain a permit to do so.

Senator HUGESSEN: What is your interest then?

Mr. FRERE: Our interest is in being able to export power, or more particularly in being able to interchange power. There was a lengthy discussion on the subject of interchange in this committee this morning, and it is the desire of our company to be able to interchange power with plants in the United States. Also, our interest is in being able to develop, for instance, the Seven-Mile site on the Pend d'Oreille River, which would also require an interchange of power. Our interest stems from two factors: We have a plant on the Pend d'Oreille River in southeastern British Columbia which cannot be fully developed for the production of firm power without some arrangement for interchange, and we also have a potential site on the Pend d'Oreille River which cannot be developed without interchange.

Senator HAIG: Did you make representations about this before the House of Commons?

Mr. FRERE: No, sir.

Senator HAIG: Did you make them before the Government?

Mr. FRERE: We applied for a permit.

Senator HAIG: How long ago?

Mr. FRERE: Five years ago, and we have made representations since that time on and off for the past five years.

Senator DAVIES: That is, to the federal Government?

Mr. FRERE: That is right.

Senator HUGESSEN: This bill would not affect any application for a permit to export.

Mr. FRERE: That is correct, but now we would have to apply for that permit under provisions of Bill C-49.

Senator MACDONALD: Have your representations been made to the Government to reduce the present tax?

Mr. FRERE: Yes. They were for a permit to export power and we also made representations that there should be no tax on the export or interchange of power.

Senator MACDONALD: That was five years ago?

Mr. FRERE: Yes, but we have been back to see the Government on frequent occasions since that time, and I might add the reason given why we did not get an export permit was that the Columbia River basin was being investigated and that the Government did not want to deal with our application until principles in connection with the Columbia River had been settled.

Senator MACDONALD: I think Senator Haig's question was, did you make representations to the present Government?

Mr. FRERE: The answer to that would be yes.

Senator ASELTINE: When?

Mr. FRERE: Not in the form of an actual application for a permit. We had informal talks from which we got the feeling that there would be no use to make an application for a permit. There has not been a formal application.

Senator McKEEN: What you are concerned with is the downstream benefits arising from American sources in the river?

Mr. FRERE: Yes, in our Waneta plant our storage is all upstream.

Senator McKEEN: The same principles apply as in the other case but from a different side of the line?

Mr. FRERE: That is correct.

Senator HAIG: You know that they are engaged now in negotiations regarding these power developments?

Mr. FRERE: That is correct.

Senator HAIG: Well, I want to know what you think,—do you think any Government would make a change under those conditions until they knew the outcome of the negotiations?

Mr. FRERE: Well, sir, I would say the principles that might come out of these negotiations should not affect our situation. We think we have a unique situation which does not depend on what is done on the Columbia River because as Mr. Anderson will explain, all that we want to do is to borrow some power from the United States during part of the year and return it later in the year, and we do not think the principles that come out of the Columbia River investigation should have any bearing on that unique position.

Senator McKEEN: Does the B.C. Electric Company and Peace River Power have anything to do with the International Joint Commission?

Mr. FRERE: No.

Senator ASELTINE: Your company is not interested in the Peace River project?

Mr. FRERE: That is right, we are not interested.

I think I can conclude my submission by merely stating that we submit that the tax or the export duty proposed by Bill C-47 should be deleted or, in the alternative, that it should be left as a matter of regulation. As was said by the Chairman this morning, when a tax is put into a statute there is no opportunity left for flexibility, and as you can see there are these various situations which arise in our case, as pointed out by Mr. Robertson this morning, for instance, in connection with firming up our power supply. We think that

we should be left free to approach the Government and say, "You have a regulation to impose a tax, but here is our situation . . . gas is going out of the country and there is no tax on it and we would like to interchange power with the United States, and we think it unfair to pay a tax on power."

Senator HAIG: Do you think we, as legislators, ought to take a tax off or put a tax on? Should not the whole of Parliament do that?

Mr. FRERE: I would suggest that this committee recommend to the Senate that this tax be taken off.

Senator HAIG: But we are not elected to do that.

Mr. FRERE: If that is not possible, we would submit that the tax should at least be left in the form of a regulation so that when this situation does arise representations can be made to the Government to have some exemption or abatement of the duty.

Senator MACDONALD: You think it is more flexible the way it is at the present time?

Mr. FRERE: Definitely.

Senator MACDONALD: That means the Government can lower the tax this month and later on raise it.

Mr. FRERE: That is correct.

Senator MACDONALD: Just moving the tax around like pawns on a chess board.

The CHAIRMAN: Or on a checkerboard.

Senator CROLL: Mr. Frere, it just occurs to me, to follow you through. You know that there is a tax payable by the automobile manufacturers and last year they had a very bad year, as they did the year before. Would they therefore be justified in coming before the Government and would the Government be justified in removing some portion of the tax because the automobile business was bad?

Mr. FRERE: I would be inclined to answer that question, yes, particularly as a consumer.

Senator CROLL: My question was, would the Government be justified in making these variations in tax from time to time, because the industry happens to be in a bad condition?

The CHAIRMAN: That is a matter of Government policy.

Senator CROLL: That is what the witness was talking about.

The CHAIRMAN: The witness says the situation should be such that that could be done.

Mr. FRERE: I would like to call on Mr. Anderson to give you a better idea of this question of interchange.

The CHAIRMAN: Mr. Anderson is President and General Manager of the West Kootenay Light and Power Company.

Mr. R. C. ANDERSON (*President and General Manager, West Kootenay Light and Power Company*): Gentlemen, the interchange of power between electrical systems is usually necessary because of a deficiency in water supply in one system, that is a seasonal deficiency, and at the same time a surplus in the other system. Later in the season that condition is reversed. So, both systems are in the position of borrowing at one stage of the season and returning at another stage. So that in a 12-month period it is balanced off. We are interested in this interchange arrangement. We have a rather unique position. We are on the Pend d'Oreille River, which rises in the United States and

flows for only 14 miles in Canada; it parallels the border within a few hundred yards, or within a quarter of a mile at the most in that 14 miles. In that stretch it falls 400 feet, which makes for two excellent sites.

The Waneta development was built in 1952 at the lower site, and developed 210 feet of head. There is no possibility of storage in that 14 miles, as it cuts through a rock canyon.

During recent years the United States interests have built storage upstream amounting in total with their last development to 5 million-acre feet. The Americans built these storages for their own economic use, principally to supply the Grand Coulee dam on the Columbia River when the flow is low on the main Columbia River. The Americans operate these storages entirely for their own interests, and it is quite correct, from our point of view. We have no complaint. Our river is on the Canadian side, and we have to take the water as it comes to us. That flow fluctuates very greatly in relation to the requirements for Coulee. So, at times we have a very low flow.

With the development of the iron and steel industry at Kimberley our surplus power is going to be taken up. We may shortly have to proceed with the installation of more units. Under present conditions it would not be economic to put in the third and fourth units at Waneta because for three or four months of the year, August and September, and the latter part of February, March and part of April, the flow is such we would have to shut the units down. We would have no guarantee of power on which to operate the industry.

The way to get around that situation, at the time the flow is restricted in August, September and at other times, when there is a surplus of power on the Columbia River in the United States and they would be restricting the flow on the Pend d'Oreille River, we would borrow power and return it later. So, to develop the Canadian resources in Canada, to create another 240,000 horsepower at this site, we must interconnect to borrow power at times of low flow, and when higher flows are released in the winter we would return the power. Otherwise there is no way we can generate firm power except by arrangement with another system that has surplus power when we are restricted.

The proposal is simply to borrow power and repay it. We think it is inequitable to impose a tax on the export of power when we bring it in initially. We would import it initially when there is a shortage in the early part of the year, and we would return the borrowed kilowatt hours. With our development we would be faced with this tax perpetually, unless there is some way of explaining the conditions, under the regulations, to the Government.

To give you an idea of the kilowatt hours involved, in the next two units we put in at Waneta, in the average yearly period we would import in the order of 215 million kilowatt hours and export the same amount, and balance off on a 12-month period.

If we develop a second site it will probably be two and a half times that amount, and we would have a surplus of power for export. We would be faced with a tax on the sale of that export power.

The problem is that in order to justify the building of these large plants, at a cost of \$50 million or \$100 million, on an economic basis, we have to have some means of exporting power. The imposition of tax on electricity is discriminatory at the present time; it is simply an added cost to the power, placed against Canadian production.

Senator THORVALDSON: Your situation is really identical to that described by Mr. Robertson?

Mr. ANDERSON: Yes, except we are on an international stream, and do not have control of the flow.

Senator THORVALDSON: How long have you been involved in this interchange?

Mr. ANDERSON: We have not yet been involved in the interchange, because we have not been allowed to put in an interconnection.

Senator THORVALDSON: You are just coming into that period now?

Mr. ANDERSON: We are just coming into that period now, and we want to know where we are headed.

Senator MACDONALD: Your company is West Kootenay Light and Power Company?

Mr. ANDERSON: The West Kootenay Light and Power Company.

Senator MACDONALD: Do you supply the Consolidated Mining and Smelting Company?

Mr. ANDERSON: West Kootenay is a public utility, and has its own plant. Consolidated has five plants of its own, which West Kootenay operates as an agent for them.

Senator MACDONALD: Do these plants belonging to the Consolidated Mining and Smelting Company supply power to any of the mines and industries in that neighbourhood?

Mr. ANDERSON: No. West Kootenay supplies the other industries.

Senator THORVALDSON: When your associate a few minutes ago was telling us that representations had been made to the Government from time to time within the past five years, representations in that regard have simply been requests that the tax be removed, and did not involve this exchange situation?

Mr. ANDERSON: Initially we applied to export power. We built the Waneta plant, and we had surplus for about five years. We endeavoured to make some arrangement to export it. We had tentatively completed agreements in the United States to export power, but we had to build the interconnecting facilities, which we were not allowed to do. We could get no permit to build those facilities; so, we have not been permitted to export power, and we have had a loss in revenue of some \$2 million a year, of which the federal Government would have received about 50 per cent. Interchange would have been involved at that time if we had been allowed to export power, but not to the same extent.

Senator THORVALDSON: That did not involve a tax problem; it involved term of export.

Mr. ANDERSON: Yes.

Senator MACDONALD: Do you supply power to any mines or industries on the American side?

Mr. ANDERSON: No.

Senator McDONALD (*Kings*): How does the price of power compare between the United States and Canada?

Mr. ANDERSON: Well, the Bonneville Power price is the cheapest of any I know anywhere. I think it is in the order of $2\frac{1}{2}$ mills, and I do not think there is any price in Canada that low.

Senator THORVALDSON: The Bonneville project is a United States public development, built by public funds.

Mr. ANDERSON: Yes, completed in 1938.

Senator McDONALD (*Kings*): What is the price of electric current in Oregon and Washington?

Mr. ANDERSON: That is the Bonneville system. For sale of power in large blocks I think it is $2\frac{1}{2}$ mills.

Senator LEONARD: Mr. Anderson, price does not enter into it? Your arrangement for power is in kilowatt hours?

Mr. ANDERSON: Yes.

Senator HUGESSEN: I suppose the price you can charge for your power is regulated by the British Columbia Power Commission.

Mr. ANDERSON: Yes, that is true.

Senator KINLEY: Is the American source of power on an international stream, too?

Mr. ANDERSON: Yes.

Senator KINLEY: And yours is an international stream?

Mr. ANDERSON: Yes, it discharges into the Columbia on the Canadian side.

Senator THORVALDSON: Mr. Anderson, would you not agree that your problem is really one that requires to be, and no doubt will be, dealt with thoroughly by the new energy board? That is what it is for. It is part of the whole export of power situation that we are involved with?

Mr. ANDERSON: Yes, we would like them to deal by regulation, too, in the export of power.

Senator THORVALDSON: But it is all part of it, and this is simply an incidental.

Mr. ANDERSON: We do not think it is very incidental. It amounts to quite a percentage.

Senator MACDONALD: Your representations are directly connected to the taxation problem; is that correct?

Mr. ANDERSON: Yes.

The CHAIRMAN: Senator Thorvaldson was saying something about the functions of the new board as and when it is set up. Were you suggesting that the new board when it was set up might entertain, and have any authority to deal with, problems such as the problem of whether the tax should be lowered or dropped? They would not have any authority in that respect.

Senator THORVALDSON: No. I do not think there is any doubt that the national energy board will consider this problem of taxation. In fact, when the bill comes down you will see that there are advisory functions in regard to all these matters, and I have no doubt that this will be one of the things that it will deal with very thoroughly. I will advise as to the tax angle as well as to anything else.

The CHAIRMAN: Well, we will remember what you said as and when the bill comes. It is a matter of record.

Mr. FRERE: Mr. Chairman, I have just one further word on this matter on what application was made to the Government for an export permit. We would not want any unjust criticism of either department officials, or the previous Government or the present Government, in connection with the application, so I had better explain again what transpired. We made the application for an export permit. As I mentioned it was rejected on the basis that there were discussions going on in regard to the Columbia River Basin. At the time we made the application we did ask for the departments interpretation of the word "export"—did it include interchange—and in the interpretation given quite informally, we were advised that it would. We never pursued that subject further because from these informal discussions we had, about how things were going in connection with the Columbia River Basin, and our chances of getting the export permit, we did not think there was any reason for doing so.

We do feel, as I mentioned before, that actually what happens in connection with the Columbia River should not prejudice our case, but I hope I have clarified for the record what happened precisely in connection with that application.

The CHAIRMAN: We have Mr. McDonald here on behalf of the Ontario-Hydro. Would you care to come forward, Mr. McDonald?

Senator HAIG: Do they want their money cut down, or increased?

Senator ASELTINE: Give him a chance.

Senator CAMPBELL: In order to relieve Senator Haig's mind I might ask Mr. McDonald the first question. A statement was made here about \$1 million in revenue being received by the federal treasury as a result of this tax—

The CHAIRMAN: That is in a year.

Senator CAMPBELL: Yes. What percentage of that tax would be paid by the province of Ontario?

Mr. LORNE McDONALD Q.C., (*General Counsel, Hydro-Electric Power Commission of Ontario*): In 1958, Senator Campbell, we paid something like \$980,000.

Senator CAMPBELL: You can see who is paying the tax.

Senator HAIG: His statement is incorrect, because the rest of Canada paid more than \$20,000.

Mr. McDONALD: Our figure was \$980,000 and some odd. I do not know what the total figure was.

Senator HAIG: Then, the total tax was more than \$1 million. Let us settle that. How much did Manitoba pay?

Mr. McDONALD: I have no idea.

Senator HAIG: How much did Quebec pay?

Mr. McDONALD: I do not know.

Senator HAIG: How much did British Columbia pay?

Mr. McDONALD: I do not know.

Senator HAIG: I will suggest to you that if you are correct I will vote any way you want me to on this bill, and if I am correct you have got to vote the way I tell you.

The CHAIRMAN: Order, please. Will you go ahead, Mr. McDonald?

Mr. McDONALD: Mr. Chairman and gentlemen, my terms of reference to attend this meeting were simply to observe and to be a spectator, and perhaps I should plead the fifth amendment to begin with, but I think it might be desirable to say a few words, and I am happy that you have asked me to do so.

I would like to proceed on two assumptions. One is that it is rather obviously not a function of this committee to determine the propriety or impropriety of this tax. The other assumption is that it strikes me the solution that we arrived at should be the most flexible solution to suit all of the circumstances.

Ontario-Hydro has one real objection to this tax, and I might illustrate it this way; we are interconnected with the Detroit Edison Company at Detroit, and again at Port Huron and Sarnia. We have lines running from Windsor to Sarnia, and the Detroit Edison has lines from Detroit to Port Huron. We are also interconnected across the river at each point. In accordance with the general characteristics of electricity, and quite beyond anyone's control, if we are sending power from our thermal station in Windsor to the Sarnia area,

and if our lines on the Canadian side are loaded, that power will flow into Detroit and up the American side and back in at Sarnia, and we pay duty on every kilowatt hour of that energy.

By the same token the Americans have the same problem. If their lines are loaded their power from Detroit to Port Huron will flow across into Canada and back in at Sarnia, and we pay tax on the American power going back into Port Huron.

That is a situation which we feel is, perhaps by way of understatement, not entirely fair, but our objection is to the method of the imposition of tax. We have lived with this tax now since 1925, I think—or, perhaps it is 1927—and we have paid substantial sums of money to the federal Government in export duty, but, as I say, I do not think that this is the time or the opportunity to discuss the propriety of that tax. It occurs to me there may be a solution to the problem that at least for the time being might be satisfactory to everyone. This committee is called upon to examine and report upon the sections of the bill and, as I understand the procedure, the committee has the right to offer amendments to the various sections that it is reporting. I think it might be a solution, and I say so very humbly and for what it is worth, that section 2 be reported with the following amendment. Section 8 of Part II of the export duty on electricity reads:

Every person who exports electric power from Canada by a line of wire or other conductor shall pay an export duty of three one-hundredths of one cent. . .

My suggestion is that the word “of” be deleted and that the words “not exceeding” be inserted. I suggest this because it then produces a bill which is exactly the same in principle as the one that is being repealed, which now provides that an export duty not exceeding \$10 per horse power per annum will be charged. I say humbly and respectfully that I believe it is within the right and jurisdiction of this committee to do this.

Senator ASELTINE: Isn't that what the section means as it reads now?

Senator BRUNT: No.

The CHAIRMAN: No, it is a specific tax.

Senator BRUNT: Of so much.

Mr. McDONALD: Yes, it is a specific tax of so much. The part that is being repealed provides for a tax not exceeding so much, and it is my suggestion that it would be helpful and flexible and perhaps, at least for the time being, satisfactory to all the power interests from the point of view of export if the same principle were followed in this bill and it were made to read “a tax not exceeding”.

Senator LEONARD: You would have to add a further provision that the actual amount less than one-third be set by order in council.

Mr. McDONALD: As the bill stands I think it probably would result in the precise tax being fixed by order in council under the next section.

Senator HUGESSEN: Yes.

The CHAIRMAN: There would have to be more words added.

Mr. McDONALD: There might possibly be some additional words, but the tax is three-tenths of a mill now and there would be no difficulty in leaving the tax at that figure and, at the same time, provide flexibility, which I think everybody desires.

Senator BRUNT: Having it done by order in council.

Senator DAVIES: Has it ever exceeded that amount?

Mr. McDONALD: No, sir. It has never exceeded three-tenths of a mill, as far as I know.

Senator CROLL: Yes, that was the evidence.

Senator HAIG: Suppose we amend this bill in the way you wish and the House of Commons does not accept it. What happens?

Mr. McDONALD: That is a question beyond my ability to answer.

Senator HAIG: The old law stands.

Mr. McDONALD: No.

Senator HAIG: Yes. They don't have to accept it.

Senator MACDONALD: If this suggestion is adopted here and is not accepted by the House of Commons, then they would accept the clause in the present bill and not in the act.

Senator HAIG: They don't have to.

Senator MACDONALD: We would have to come to an agreement.

Senator HAIG: Suppose the Government didn't want to do it.

Senator MACDONALD: Then they strike it out.

The CHAIRMAN: Wait a minute. We are getting far afield.

Senator THORVALDSON: Had we not better hear this witness?

The CHAIRMAN: Yes.

Mr. McDONALD: On the subject of what governments might want to do, I might also add that we have been making representations for some years on this matter of power flowing back and forth across the Detroit River, but without any success.

Senator CROLL: You would not want to win the first battle here, would you?

Senator BRUNT: He would be very happy to win it anywhere.

Senator CAMPBELL: Have you ever attempted to draft a definition of the word "export" to relieve you of the problem that exists in the Windsor-Detroit area?

Mr. McDONALD: No, I have not tackled that. I feel myself the determination of whether or not power is an export is more a matter of common sense than a definition in any statute.

Senator CAMPBELL: But they have not gone along with that.

Mr. McDONALD: No.

Senator CROLL: I have heard a lot of talk about the exchange of power and what your situation is, and so on, but the meters are put there to keep you honest and that is the reason for it. Let's face it.

Senator BRUNT: I would hate to think the Ontario Hydro is dishonest.

Mr. McDONALD: It cost a substantial amount of money to install the necessary equipment to prevent that type of thing, and we are inter-connected with Manitoba, Michigan, New York Mohawk and the New York Power Authority and Quebec, we are all in a great composite grill of power and it flows anywhere. Power will flow actually into our Niagara area from the St. Lawrence through New York state. We do what is called "wheeling of power" for other authorities on the same basis. But that is power which is theirs and we should not have to pay somebody to put it out.

Senator CROLL: The trouble is that there is no way for the Government to know what power is theirs and what power is yours, so they put a meter on.

Mr. McDONALD: Yes there is. It can be measured very accurately. I can tell you this, Senator Croll, that in a month something like 23 to 25 million kilowatt hours flow across from Windsor to Sarnia via the United States, and

approximately the same amount with a net difference of something under a million kilowatt hours flows the other way. The difference may be a million one way one month and a million the other way the next month, but there is something like 25 million kilowatt hours per month that take this escape route.

Senator DAVIES: I know that you do not represent private companies, Mr. McDonald, but the private companies were represented before the committee this morning. In addition to paying a tax on the export of power do they also pay a corporation tax?

The CHAIRMAN: Oh, yes.

Senator McDONALD: It is close to 3 o'clock.

The CHAIRMAN: I suggest we adjourn to meet when the Senate rises later this afternoon. Mr. Lemieux is here and I think we should make an effort to hear all the witnesses today.

Mr. LEMIEUX: I am from the Quebec Hydro and I do not have any special presentation to make. I am merely here to represent the interests of our Commission.

Senator BRUNT: Would you not like to address the committee? We would like to hear from you.

Senator MACDONALD: We would like to hear what your interest is.

Mr. LEMIEUX: As you wish.

The CHAIRMAN: We will hear from you later this afternoon. We will adjourn now.

The committee thereupon adjourned until the Senate rises.

—At 4.40 the committee resumed.

The CHAIRMAN: When we adjourned we were about to hear a few remarks from Mr. Lemieux. I would now ask Mr. Lemieux to come forward.

Mr. Lemieux, we would be interested in hearing whatever you would like to tell us in connection with the section we are now considering. But first, may I ask you whether you have the figures as to how much tax Quebec paid in 1958?

Mr. Edmond LEMIEUX (*Quebec Hydro, Comptroller of the Quebec Hydro*): In 1958 the Quebec Hydro paid \$140,000.

Senator HAIG: May I ask whom this gentleman represents?

The CHAIRMAN: He represents the Quebec Hydro Commission, with headquarters at Montreal.

Senator REID: Have you any connection with the Ontario Hydro?

Mr. LEMIEUX: We are interconnected with the Ontario Hydro.

Senator HAIG: Where is the gentleman who said they paid \$1 million, and somebody said he paid \$980,000; so I said that leaves \$20,000.

Senator CROLL: He didn't say that.

Senator BRUNT: No, he didn't say that at all.

Senator HAIG: That is what I took down.

Senator CROLL: No; Mr. Robertson said he thought it was \$1 million; but Mr. McDonald said, "But we pay \$980,000"; and Mr. Robertson may have been wrong, not Mr. McDonald.

Mr. LEMIEUX: I believe, sir, the actual amount collected in the year 1958, and I believe it is the fiscal year, was about one million four not \$1 million.

Senator HAIG: That is more like it.

Mr. LEMIEUX: Mr. Chairman, and gentlemen, I have not been delegated to give the views of our Commission, but to be an observer, and to answer such questions as I might be able to answer.

In connection with the exchange of power that was described this morning, someone might have compared it to the advertisement that occurred in a newspaper, in the classified section, about a young man who was paid on the first of the month, and broke by the 15th, and would like to get in touch with a young man who was paid on the 15th and broke on the 30th. The situation with respect to the exchange of power is very similar to that.

Senator MACDONALD: Is there any exchange of power between your company in Quebec and the United States?

Mr. LEMIEUX: No, there is no direct exchange of power between our company. We sell to the Cote Rapids Commission, a subsidiary of the Aluminum Company of America, that is a direct sale. We deliver much power to the Ontario Hydro, some of it for their own use, and some of which, I understand, they re-sell to Detroit Edison.

Senator MACDONALD: There is no exchange of power?

Mr. LEMIEUX: There is no direct exchange between Quebec Hydro and American Utilities.

The CHAIRMAN: Any other questions? Thank you, Mr. Lemieux.

I think at this time we should hear whatever answer the department wishes to make on this point. Who is going to be the spokesman—Mr. Irwin?

Mr. IRWIN: Mr. Chairman, all I think I should say is to point out, first of all, that the Minister of Finance is counting on the revenue from this tax in his budgetary planning this year. That may not be a point at issue.

The second point I should draw to your attention is that in speaking on this proposal—

Senator MACDONALD: May I interrupt for a moment? This bill is not founded upon a ways and means resolution is it?

Senator CROLL: No.

Mr. IRWIN: This bill follows a budget resolution.

Senator MACDONALD: Of the ways and means committee?

Mr. IRWIN: Of the House of Commons committee, yes sir.

The CHAIRMAN: Is this particular item in the resolution?

Senator MACDONALD: I would be very much surprised if it were.

Mr. IRWIN: A resolution preceding this bill was before the House of Commons Ways and Means Committee. There was no resolution on this particular point.

The CHAIRMAN: There was no resolution on this point; it is not a new tax.

Mr. IRWIN: There was no resolution because it was not a new tax; there was no change in the tax.

Now, in speaking on this point, the Minister of Finance made it clear that he did not approve of the way in which this tax is now imposed, and he said that he did not approve of a tax imposed by Order in Council.

Senator BRUNT: Would you read what he said?

Mr. IRWIN: I will now read what the Minister of Finance said, as appears in the House of Commons Hansard for May 19, 1959, at page 3820:

Section 4 of this act of 1955 which will now be repealed if this clause is adopted by the committee gave the Governor in Council the power to make regulations imposing export duties. This is the language of the clause:

4. The Governor in Council may make regulations imposing export duties, not exceeding ten dollars per horse power per annum, upon power exported from Canada and respecting the manner in which such duties, shall be calculated and paid.

The Minister of Finance then went on to say:

The feature of that existing law, which I must say I could not approve, is that it gives power to the Governor in Council subject to a ceiling to establish the rate of the tax.

Senator MACDONALD: Will you read the next two paragraphs?

Mr. IRWIN: (Continuing):

It happens that the rate of tax on the export of power is 3/100 of one per cent per kilowatt hour. What we are doing is to make that a statutory tax and to remove any power to establish a tax by order in council. I hope that change will commend itself to the committee.

The CHAIRMAN: Anything further? Mr. Irwin says he has nothing to add to this statement. Are there any questions?

Senator CRERAR: I was rather curious about one thing. The minister made an observation about a change that he hoped would commend itself to the committee. I should like to hear more about that.

Mr. IRWIN: There would be no change in the revenue. The point I wish to make, sir, is that the minister had counted upon this tax continuing in force.

Senator CRERAR: But he could count on just as much revenue if this legislation were not passed?

Mr. IRWIN: Yes.

Senator HAIG: He wants it fixed; he does not want it touched by order in council at all. He wants the law to say what it is.

Senator MACDONALD: In fact, he could get more tax under the former law.

Senator CRERAR: The only logic of that argument is that if it is in a statute it is irrevocable. Otherwise, the Government might weaken and make a concession.

Senator HAIG: I think the general feeling of our house, at least, it is my feeling, and always has been, that we like the taxes put on the statutes themselves, and not the Government have the right to fix the taxes. We think that is the better policy. If it is in the statute we know then what it says. I think the public would rather see it as a matter of legislation actually in the statute books, where they can find it.

Senator BRUNT: This tax was put on by statute, and all the order in council does is give you the right to change it.

Senator CROLL: While we are making observations, and before you adjourn, Mr. Chairman, there is one observation I should like to make. If ever there was a mandate for a government to do what it is proposing to do now, this Government has it. They have been running up and down the country talking about improper uses of orders in council and stating that they should be statutory, and Parliament should put them on the statutes. This Government has a mandate, and I think we should be very careful before we interfere with that.

Senator MACDONALD: Why didn't they follow that course in the Energy bill, then?

The CHAIRMAN: Just a minute, now. We do not settle anything by argument, and if there are no further questions from this witness, then that concludes the evidence on this particular section. I understand that various senators have engagements this evening, and I am willing to entertain a motion to adjourn until 10.30 tomorrow morning.

Senator BRUNT: Agreed.

—Whereupon the committee adjourned until Thursday, June 4, 1959, at 10.30 a.m.

—Upon resuming Thursday, June 4, at 10.30 a.m.

Senator Hayden in the Chair.

The CHAIRMAN: Order, please. We will resume our consideration of Bill C-47. We had heard all the witnesses who wished to be heard in connection with the bill dealing with export duty on electricity. Is the committee ready to deal with this section now before we proceed to the next section of the bill?

Some SENATORS: Carried.

Senator BRUNT: No, it is not carried. I want to move an amendment. I move that section 2 be struck out, deleted from the bill, so that the matter of export duty will go back under section 4 of the Exportation of Power and Fluids and Importation of Gas Act the way it is at the present time.

The CHAIRMAN: You have an amendment proposed in connection with clause 2 of the bill, Part II. It will be seen that clause 2 says:

The said act is further amended by adding thereto, immediately after Part I thereof, the following heading and sections:

Senator MACDONALD: I understand the motion is a negative motion; it does not carry. If it does not carry, then the former section stands.

Senator BRUNT: If that is what you desire, I am content.

Senator ISNOR: I do not think that is quite correct, Mr. Chairman, although I do not know the legal angle of it. It would have no effect, would it? We have a bill, I understand, which is being repealed?

The CHAIRMAN: No.

Senator DAVIES: I would like to hear the reasons for this amendment.

The CHAIRMAN: The only suggested amendment is that we strike out this section. However, in striking out the section you can accomplish the same result by voting against this section when I say, "Shall this section carry?" If you do not want it to carry, you vote against it; that is the effect of striking out the section.

Senator CROLL: Senator Davies asked for the reasons for proposing the amendment.

Senator BRUNT: Well, at the present time the rate of export duty has been fixed by statute, the maximum rate, and the Governor in Council has power to vary this rate as it sees fit. I feel that if this section carries that power will be lost to the Governor in Council and rates can only be changed by statute, which I think puts the Government in a strait-jacket, and that unless Parliament is meeting you cannot do anything about adjusting rates of duty.

Senator MACDONALD: This is not rates; this is a tax.

Senator BRUNT: All right, the rate of tax, then.

The CHAIRMAN: Just to refresh my own memory, if I recall correctly, the evidence of those who appeared for the company yesterday was that they did have a flexibility under the present statute, and to continue to have that

flexibility between now and the end of the year was important to them, because of reports and surveys and decisions which they had to make as to whether they were going ahead with this project. That is the reason they gave. And they said that under the present act there is a flexibility, that is, that "if we want to try to bargain down on the rate for the purposes of going ahead with this deal, at least we can go to the Government and bargain; whereas if it goes into the Excise Tax Act it will be at a fixed rate, and we cannot bargain with the Government".

Senator GOLDING: Does it not amount to this, that what you are trying to do is to have Government by order in council rather than by Parliament?

Senator BRUNT: No.

The CHAIRMAN: You are not suggesting that is what I was trying to do, are you, senator?

Senator GOLDING: No, but that is actually what would be accomplished. I heard the discussion yesterday, and there was a good deal of merit in the proposals that were made, but all those proposals could be dealt with by Parliament, and that is where they should be dealt with.

Senator REID: Mr. Chairman, I would like to ask a question to bring out some information. Does this propose a tax on electricity exported from Canada even though there is no monetary compensation at all for the expenditure of the electricity. Yesterday I heard one of the witnesses from British Columbia saying that this is a quid pro quo, that they pay a tax on electricity exported from British Columbia but there is no credit for the electricity retained or when it comes back.

Senator ASELTINE: That is not what this legislation is dealing with.

The CHAIRMAN: Let us clarify this: Yes, Senator Reid, the witnesses yesterday gave that evidence and we listened to it. I did point out at the time that our immediate concern in consideration of this amendment was confined to the point as to whether or not we should pass or reject section 2 which provides for this tax. We are not called on at this time to decide whether or not there should be an export tax, there is one—all we are called on to do is to decide whether we are going to permit a transfer of it from one statute to another with the incidence that will follow.

Senator HAIG: This bill has come to us with the recommendation of the Government, and it has passed the House of Commons, so it comes here with their recommendation too. This, Mr. Chairman, is in line with my idea of what ought to be done in any event. There may be certain occasions arise, for instance, where we are negotiating with foreign powers and the Government needs to have the authority in their own hands to carry out these negotiations, but I do not think that the fixing of rates of taxation is one of the things that the Government should have in their own hands. I think Parliament should fix the rate.

The CHAIRMAN: Well, Senator Haig, in 1955 and earlier than that Parliament did the thing you are now criticizing, and you helped to do it.

Senator HAIG: I know, but that does not make it right now.

The CHAIRMAN: How do I know it is right now.

Senator HAIG: I am not saying the Government is right. What I am saying is that in my judgment I do not think I can vote to give the Government power to determine a tax. I am not asking anybody else to vote that way, and I am not saying that the Government is right or wrong. The Government has asked us to do this, whether it is right or wrong.

Senator LAMBERT: Mr. Chairman, as was pointed out yesterday, and according to the way I understand this legislation, Part 2, so-called, is a duplication of the provisions already in the Exportation of Power Act.

The CHAIRMAN: That is right.

Senator LAMBERT: Now that condition has subsisted for a long time, and in its present state it gives full opportunity to petitioners, under the Exportation of Power Act, to have dealings with the officials when the occasion arises. The present arrangement gives them more flexibility in dealing with their case, and to my way of thinking it enables enterprising people in this country to promote the development of Canada in a legitimate way.

Senator BRUNT: Hear, hear.

Senator LAMBERT: And I think that is the real issue in connection with this legislation. I have no interest one way or the other as to how the revenue is raised, although I think it is important that it should be raised, but this legislation will not alter that fact one iota. I think that Parliament is in duty bound to give full consideration to petitioners particularly if they represent what you might call a minority interest in this country, and this is distinctly, coming from the province of British Columbia, with the enterprise that is being reflected in this petition, a minority interest in relation to the rest of Canada and for that reason I would urge that the duplication be eliminated and that this Part 2 be removed from the bill.

Senator HUGESSEN: Mr. Chairman, I listened to the evidence of the witnesses very carefully yesterday and it seemed to me that their primary concern was not really so much with this bill as in laying a foundation in the future for a change of policy by the Government and Parliament in which this export tax on electricity can be eliminated, and I thought they made a very strong case for that. That of course is not what we are primarily dealing with in this bill.

Their second point was that if you eliminate this paragraph in the bill, and go back to the old act, there will be some flexibility to make representation to the Government. That may be true in a sense, but I would remind the committee of the question I asked one of the Government witnesses right at the beginning of yesterday's proceedings: had there ever been an exception granted to anybody from this rate of tax. The witness said there had not.

From what the witnesses from the various power companies said, it seems perfectly clear that at the moment the Government is not disposed to make any dispensation whatsoever. I would think that the best thing for us to do would be to put this section through. I quite agree with Senator Haig, that it should be in the taxing act. Then next year, or the year after, whenever the Government gets around to determining policy on the general question of whether there should be an export tax on electricity—and for myself I think it is a bad tax—then we can amend the Excise and remove this provision.

Senator HAIG: Hear, hear.

Senator HUGESSEN: On those grounds I would be disposed to vote against the amendment, but I think we have been given the ground work for something which we have to consider very carefully.

Senator CROLL: Mr. Chairman, I agree with the observations made by Senator Hugessen. There is, however, one thing that troubles me about this bill in addition to what has already been said by Senator Hugessen and Senator Golding. I am not going to repeat what I said yesterday, but I think it very important for this committee to know that no approaches were made to the Government before this bill was passed requesting them to retain that alleged flexibility. The approach is now being made to us after the House of Commons has passed the bill and the Government approved it. If an approach had been made and the matter had been considered, that would have put a different light on it. But as it is, Parliament has never had an opportunity to consider that approach, recently, in any event. For that reason I think it is hazardous on our part to interfere with this bill at this time.

Senator MACDONALD: Mr. Chairman, I would like to state my position, and it is my personal position only.

In the first instance, I do not put any strength in the argument advanced by Senator Haig, that this bill has passed the House of Commons and the implication is therefore that we should accept it. I think we should review this bill very carefully, as we should every bill that passes the other house.

Senator Haig also suggested that because it is a Government bill it has been approved by the Government, therefore we should accept it. I don't take that stand. I think we should review any and all bills, whether or not they have been approved by the Government. It is not likely any bills will come here that are not approved by the Government.

So, in my opinion this bill stands like any other bill that comes before us, after passing the House of Commons, and we must review it.

I listened to the evidence given yesterday, and I thought it was very well presented.

I was convinced that the tax is too high, and that something should be done about it. I think the witnesses put that quite clearly. We may only have one side of the question, but at least, in looking at their side of it it appears that the tax is excessive, and something should be done about it.

But, Mr. Chairman, this committee, as you have stated, has no power to reduce the tax. We would not assume that power. You may say we have the power, but I do not think a committee of the Senate would assume the responsibility of reducing it, and the proposal in this bill does not reduce the tax. The others who have spoken here have emphasized—and I do not need the repeat it—that the taxing power should remain in Parliament and not in the hands of the Government. It is all very well to say it has been done in the past. It is quite true that it has been done in the past, and I regret it. It has been done in the past, but apart from this bill I know of no instance where it has been done in the Excise Tax Act. There may be other instances, but I cannot think of them. I think that this is the only item in the Excise Tax Act that can be varied by the Governor General in Council.

Now, there may have been a reason for it originally, but I, personally can see no reason for it now. I can understand the necessity of leaving the power within the executive if the matter had to be decided suddenly, but this matter has been under consideration, apparently, by the Government for years—the previous Government and this Government—and I cannot conceive of a situation arising where a decision would have to be taken when Parliament was not sitting, and I see no special circumstances in connection with the exportation of electricity to warrant giving the executive powers that should rest entirely with Parliament.

That is the reason why I cannot support the proposal that we should go back to the old powers in the act. I think that would be a retrograde step. I feel the taxing powers should be restored to Parliament wherever they are in the hands of the executive, and can be restored to Parliament. If we can take that step, then, I think we should take it.

I might say I was quite impressed by the evidence of the witness, Mr. Robertson. I do not want to single him out because the other witnesses were very good, but evidence was given by him yesterday, and I think he will fully understand that anything we do today will not affect the tax whatsoever. He did suggest that it might be easier—I do not know whether these were the words he used—for the cabinet to make the change than for Parliament to do so. I could not understand why he said that. I think I asked him if it would be easier to influence the cabinet than Parliament. I am not sure that I said that, but that should not be the situation.

I am forced to come back to a stand, and which I will have to take in connection with other bills, that where power is sought to be given to the cabinet it should not be so given. It should rest in Parliament, and I will resist any such legislation. I repeat that I think the tax is too high, but we cannot do anything about that, and I think taking the power from the executive and restoring it to Parliament is a step in the right direction.

Senator BRUNT: Just to continue the argument of Senator Macdonald that Parliament should be the only body which is allowed to change the rates of duty, we know that is not the case today. Hearings are held before the Tariff Board and duties are adjusted all the time by order in council.

Senator MACDONALD: Oh no. I doubt that very much.

The CHAIRMAN: Oh, yes. That is correct.

Senator MACDONALD: They can reduce but not increase.

The CHAIRMAN: Yes.

Senator BRUNT: That is done to meet changing conditions in Canada all the time, and I think we should leave this and go back to the old section so that the Government can meet changing conditions as they arise. This tax was imposed by statute. Nobody is arguing that it was ever imposed by order in council. All that I am arguing is that we should leave it in a very flexible state so that it can be changed to meet any emergency which may arise in connection with the development of Canada, and that is far more important to me than whether the change takes place by statute or by order in council.

Senator McDONALD (*Kings*): There is one thing bothering me. From the evidence we heard yesterday I was led to believe that putting this in the statute might interfere somewhat with progress. In other words, if it is under regulation there is a chance you might be able 12 months of the year to go to the Government, but if it is in the statute you have not that option and therefore it might at a very critical time prevent progress.

Senator CRERAR: I was unavoidably late so might I ask whether there is an amendment before the committee?

The CHAIRMAN: No, there is not. We have decided that those who oppose the clause in the bill simply vote against it. I did not think, in the circumstances, I could accept an amendment.

Senator CRERAR: Very good. That clarifies the situation. Now, I disagree with the view put forward that it is desirable to make this change. I am opposed to the change and I am in favour of leaving the situation as it has been under the Exportation of Power and Fluids and Importation of Gas Act, which has prescribed a limitation at the upper level beyond which the Governor in Council cannot go but can reduce it.

Let me say first that so far as the amount set here is concerned, I disagree with Senator Macdonald that we have not the power to reduce it. We cannot increase it but ways and means are not so sacrosanct to a committee of the Senate that the committee cannot reduce a tax and, in fact, has done it before. It has removed from ways and means proposals that were advanced by the Government and through the House of Commons.

Senator MACDONALD: May I just interrupt to correct the impression you have gathered from my remarks? I said that whether or not we had the power to reduce it, it was undesirable.

Senator CRERAR: I beg your pardon. I misunderstood you. Now, as to the merits of the case. I am as much opposed to order in council administration as anybody, but Parliament legislated in this measure, in the existing act, when it said that you cannot impose a tax above a certain level. At the

same time it allowed flexibility and, notwithstanding what my honourable colleague from Toronto-Spadina (Hon. Mr. Croll) has said, that is the most important thing in this measure. There may be situations arise that we cannot foresee and Parliament cannot foresee, and we must trust to the wisdom of the administration to deal with that when the problem arises. Whether the tax is too high or too low or should be eliminated is not a matter for discussion at the moment, but I maintain that it is infinitely better to leave the flexibility with the Governor in Council who has to accept the responsibility. If we make this change and embed this as a direct instruction in the law of the land as to the tax that shall be levied in all cases and in all circumstances, by that very act is carried the implication that that is the tax that is intended, and you remove the flexibility altogether. For that reason, Mr. Chairman, I am going to oppose this section when it comes to a vote.

The CHAIRMAN: Senator McKeen?

Senator McKEEN: Mr. Chairman, there are several impressions that have been brought forward, and I think this should be clarified. In the first place, there is the impression that this is a British Columbia matter. Being a senator from British Columbia I would like that cleared up. This tax was not accepted, I think, by any company, in the sense that they were in a position to export power, up to the present time, to any great amount. The tax was paid, and they objected to it, but they did not object too strongly because there was not too much money involved. However, with the Beechwood project in New Brunswick now in a position that they are going to have to export power, and with the St. Lawrence Seaway starting, and the Ontario Hydro having the power to export, as well as the British Columbia Power Commission, through expansion in British Columbia, expecting to have to sell power to the American side, as well as the Peace River Power developing, which will no doubt have to export power, things are somewhat different. What Canada needs, in my opinion, is export business. What we need is American dollars. Now, if we are going to put a tax on one particular power project, which is electricity, is that reasonable, when we do not tax gas, oil, fish or minerals? Those things are all wasting assets, with the exception perhaps of fish—with due respect to Senator Reid, who has done so much to build up the fishing industry so that fish cannot be regarded as a wasting asset; but all the other projects exported from this country means that we are taking something out of the country. With electricity that is not so, as nothing is taken out; the water is there, and as long as it continues to run nothing is lost to the country. Why electricity is singled out to be taxed on export, I do not understand. It is the only product that is singled out for tax, with the possible exception of whiskey, which I believe has had a tax imposed upon it in the past few years. As shown by the witness who appeared from the Ontario Hydro, there is an interchange of power, and they have to pay \$4,000 a month for nothing, because the power just goes back and forth. The West Kootenay Power is in a different position; they have power for two months in the year, and then they have to get power from the American side to keep the Consolidated Smelting and other projects out there going when the water is down. Two months later they can supply that power back. They do not buy it, they borrow it, and yet when they ship it out they have to pay tax on that power. Two months later when they bring that power in as exchange they do not get any credit or drawback on their taxes. No money changes hands at all.

I would like to support the view that the Government, under the new situation that arises, can export from New Brunswick, or from Ontario. In regard to Ontario, Quebec now exports through Ontario; and British Columbia will also export power. That is why I submit that this should be left as in the past. The Borden Commission has been appointed to inquire into this

whole subject, and in the meantime, I cannot see why we should put them in a strait-jacket now when we have not done it before. At least, this matter should be held up until such time as the Borden Commission on Energy makes its recommendations to the Government or to Parliament. For that reason, I think it should be left as in the past, though conditions have changed. Like Senator Macdonald, I am not in favour of Government by order in council, but in this case I think the situation is entirely different from others, in that this is a particular instance, where industries, as given by evidence yesterday, have made expenditures amounting to \$2 billion, and if a change is made now these projects may be held up or abandoned altogether until something is done; and at this time we certainly need employment and power for industry in Canada, which we cannot afford to get by putting in large units which cannot be used in Canada for many years to come. We need part of that power right now, and in this way we can get it.

Senator KINLEY: Mr. Chairman, the engineer from Ontario who was here yesterday said that 90 per cent of this tax was paid by Ontario.

The CHAIRMAN: \$980,000 out of about one million four.

Senator KINLEY: The way I look at this bill is that it is a revenue bill. We all agree that the Government needs money. If it needs money it has to go where money is available, and that is what it is doing.

The CHAIRMAN: No, this is not imposing a tax.

Senator KINLEY: No, I know, but is it not opening the door? Now, there is an Energy Board being appointed, and it seems to me they have a function which might have something to do with this.

The CHAIRMAN: I can tell you, senator, if you will allow me, that under the National Energy Board Act, which has passed the House of Commons, there is a provision in that act for the repeal of this exportation of power statute, except section 4, which is the taxing section in the statute; and they continue that.

Senator KINLEY: The intention of the Government in this matter is pretty strong, is it not? They need money, and they put this in the act deliberately. Upon my word, I do not know enough about it to say that the Government should not collect money this way and they should not put it in the statute. I was always in favour of the statutory law instead of order in council law, although things are changing, and you have to be a little flexible, but I don't know if we are not taking ourselves too seriously when we want to change this bill.

Senator LAMBERT: Mr. Chairman, regarding what Senator Kinley just said, this legislation does not affect the raising of the revenue one particle.

The CHAIRMAN: That is quite clear.

Senator LAMBERT: That revenue will be raised just the same; it has been raised before, and the provision in the other act is there.

I wanted to make just one point. On the basis of appeal, I think that it is only fair and just to permit the petitioners to have the right to appeal to the foot of the throne, if you like to say it that way, and by passing this bill with Part II established in it practically denies the right of the petitioners in this case—practically denies the right to go to the Governor in Council with any proposition that they like to put before them. If it is a reduction in the tax, all right, let them do so; we can do that here because the legislation in connection with the other act already provides for the tax. To come back now to the word "flexibility" again. Flexibility is gone in this particular case if this bill passes the way it stands. I am certainly in favour of giving the benefit of any doubt that exists at all to petitioners.

Senator GOLDING: Mr. Chairman, we have had a long argument with reference to this tax, whether it should be passed or not. Now, I do not think that is what this bill is for.

The CHAIRMAN: Everybody agrees with that but everybody talks about it nevertheless.

Senator GOLDING: Well, I think the talk is for a purpose. Now let us deal with the facts. I am convinced of this, that anyone who has a good case can go to Parliament, particularly in cases of this kind, and I might say that this appears to be a long-term affair and it will be a long time before this power is ready to be exported. What I want to say is that anyone who has a good case can come to Parliament and get justice from Parliament.

The CHAIRMAN: Those who are in favour of approving the section as it stands in this bill before us will please raise their hands.

The CLERK: 12.

The CHAIRMAN: Those who are opposed please raise their hands.

The CLERK: 13.

The CHAIRMAN: The section does not carry.

Senator CROLL: Thirteen, with the Chairman?

The CHAIRMAN: I should point out under the rules the Chairman can vote only on the resolution, he does not have a casting vote in case of a tie.

Senator MACDONALD: The Chairman voted last.

The CHAIRMAN: Well, the Clerk came to me last.

The CHAIRMAN: I do not think we need to spend much time on clause 3 of the bill. Clause 3 of the bill is ameliorating in a sense that the basis of value for calculation of sales tax on importations differentiates between the article itself and the value of the package and the wrapping material, so that if this amendment becomes law you are not faced with the duty value of the article as the basis, which would be higher, because under the Customs Act, as I recall it, even the wrappings and the packaging are valued on the same basis as the article itself, so this is ameliorating.

Shall clause 3 carry?

Agreed.

The CHAIRMAN: Would you care to say something about that, Mr. Irwin?

Mr. IRWIN: Clause 4 provides the amendment that was discussed when the committee was considering clause 1. It provides that a person who wraps packages, puts them up in boxes or otherwise prepares for sale cosmetics or pharmaceuticals shall be deemed to be a manufacturer and a sales tax will be collected at that point.

Senator BRUNT: Will this produce more revenue for you?

Mr. IRWIN: It might.

The CHAIRMAN: I would think it is bound to produce some.

Senator ISNOR: Mr. Chairman, would the witness enlarge on this point and tell us what is meant by the word "exclusively" in the eleventh line on page 3, where reference is made to the retail store exclusively.

Mr. IRWIN: One reason, Senator Isnor, is that you do not want to require every small retailer to become licensed as a manufacturer and require him to account for the tax. For example, if this exception were not made the druggist who made up prescriptions might be called a manufacturer and required to account for sales tax on the prescriptions. That is the reason the retailer is excluded.

Senator ISNOR: That is all right, but the words used are, retail store exclusively.

The CHAIRMAN: Senator Isnor, you are right. The language is not in line with the explanation as I see it, because the language says that the retail store, in order to enjoy this exemption, must sell its product exclusively and directly to the consumer, it has nothing to do with any of the other activities of the retail store.

Mr. LABARGE: Mr. Chairman, I think this is a way of distinguishing so that you have a clear-cut line between a retailer whose job is retailing to the consumer and, in addition, retailers who on top of doing that operate a wholesale operation and become a manufacturer and gets into the business of selling to wholesale houses or to other retail houses.

Senator ISNOR: Will you read it leaving out the word "exclusively" just for the moment, and see if you do not arrive at the exact same answer.

Mr. LABARGE: It is there for emphasis. We find this, that when you are being as specific as this, where there is a question of a man doing both operations, and in this case here if he sells directly to consumers I suppose, by sticking to that, you would have to check all his sales and you might have discussion as to whether or not a certain consumer is a normal retail consumer.

The CHAIRMAN: Well, then, if he is not a normal retail consumer the tax will apply.

Senator ISNOR: There is a very definite distinction between an exclusive store and a retail store not catering to exclusive trade.

Mr. LABARGE: Oh!

Senator ISNOR: Just read that as I asked you to a moment ago by dropping the word "exclusively" and I think you will see that your purpose will be served just as well.

The CHAIRMAN: I think the addition of the word "exclusively" has this effect, that if I am operating a retail drug store and I sell these cosmetics which have been wrapped in accordance with this section I sell them directly to consumers but I might have one sale to some person who does not fit that definition. And so if you take out the word "exclusively" I think I could argue that my prevailing operation was the sale directly to the consumer and therefore I am entitled to the benefit of this section. But when that word "exclusively" is put in the provision they are in effect saying that if you have one sale to a person not a consumer then you are not protected under this section.

Senator KINLEY: Mr. Chairman, there are different types of drug stores. In the rural areas the drug stores job Parke Davis, Wyatt's and other pharmaceuticals to the doctors, and the doctors carry medicine and sell it. The drug stores get an extra discount because they have a big turnover in retail drugs. Are you going to class them as manufacturers?

Mr. LABARGE: No. If he is not doing a job of re-packaging.

Senator KINLEY: For instance I know one drug store in Newfoundland that has a wholesale and retail department, and there are many others like it. They sell to the doctors and certain trades. It seems to me you are getting them in the position of manufacturers.

Mr. LABARGE: This would only affect them, senator, if they had a manufacturing operation.

Senator KINLEY: If a man has one store and puts stuff up, he is all right, but if he has three stores and has a little building in which he puts stuff up, he is a manufacturer.

Mr. LABARGE: Yes.

Senator REID: What is regarded under the statute as a substitute for candy? Would maple sugar and block honey come under that classification?

Mr. LABARGE: Maple sugar is exempt under the statute. A product that causes some trouble is sugar popcorn. That is a substitute for candy. There are also certain kinds of so-called biscuits, marshmallow chocolate coated biscuits; if they are sold on the counter next to the candy they are a substitute for candy. There are a number of items like that.

The CHAIRMAN: Shall this subsection carry?

Some hon. SENATORS: Carried.

The CHAIRMAN: What about subsection 2?

Mr. IRWIN: Subsection 2 corresponds to clause 3 which was just explained. One deals with excise tax and the other deals with sales tax.

The CHAIRMAN: Shall subsection 2 carry?

Some hon. SENATORS: Carried.

The CHAIRMAN: Clause 5 of the bill: What have you to say about that, Mr. Irwin?

Mr. IRWIN: This is largely administrative, and Mr. Labarge will deal with it for the most part.

I might point out that paragraph (c) merely changes the wording, but not the substance.

Paragraph (d) covers the situation where a licensed wholesaler purchases goods, but instead of selling them again retains them for his own use, or puts them out on a rental basis.

The CHAIRMAN: You are thinking of such things as sick-room equipment?

Mr. LABARGE: Heavy machinery.

Senator BRUNT: Such as shoe repair machinery?

Mr. IRWIN: The licensed wholesaler does not pay the sales tax at the time he purchases the goods, but at the time he sells them.

Senator BRUNT: I understand that the modern shoe repair machinery is such that it is impossible to buy, and is used on a rental basis.

Mr. LABARGE: This applies largely to the manufacturer of rented goods. You have shoe machinery, the kind you can't buy; and I.B.M. machinery which is very costly to manufacture. In such case the tax is paid by the manufacturer. The licensed wholesaler privilege has been operated so that a wholesaler purchases goods, whose sales are 50 per cent for exempt purposes, does not have to go through the procedure of refunding claims to get back more than 50 per cent of the money he paid. So it is a facilitation for that purpose.

That was the purpose of the licence. But since it was found that a man by importing or buying heavy equipment for, say, resale to an exempt user like the logging industry or farmers, he suddenly decides he can get this thing tax free if he goes into the business of renting, as the manufacturer would. This provision is to make sure that when he does that, he is in the same position as the manufacturer and pays the tax on it.

Senator BRUNT: Is not this a case also to catch up with the wholesaler in Canada who imports this shoe machinery from the United States and rents it out here?

The CHAIRMAN: He is caught now.

Mr. LABARGE: The shoe machinery is exempt as being for the manufacture of goods, used directly for that purpose.

The CHAIRMAN: I thought you were talking about the type of shoe machinery used for repair purposes.

Senator BRUNT: That is right.

The CHAIRMAN: I was referring to repair machinery.

Mr. LABARGE: On repair machinery he buys a different type of equipment, and in that case it is taxable, because he is not the manufacturer.

The CHAIRMAN: Shall section 5 carry?

Some hon. SENATORS: Carried.

The CHAIRMAN: Clause 6 of the bill deals with the manufacturing license.

Mr. LABARGE: That is really consequential on last year's amendment whereby the annual renewal went out, and they have a permanent license.

Senator BRUNT: This can give you some control.

Mr. LABARGE: Yes. It is just as embarrassing to them, because they have to make returns marked "nil" as long as they have the license.

The CHAIRMAN: Shall section 6 carry?

Some hon. SENATORS: Carried.

The CHAIRMAN: Section 7. This deals with the continuing liability on a bond even after it is cancelled. We could pass all the statutes in the world, but unless the conditions in the bond are retained I don't know how it would carry on beyond the date of cancellation.

Senator BRUNT: This is entirely new.

Mr. LABARGE: It is just what the chairman has said. This clause was in the bond, but since there is a termination in the bond, at its termination the clause goes out. This is to permit the clause to continue in effect.

Senator BRUNT: You preserve your right.

Mr. LABARGE: Yes. It is recommended by the Department of Justice.

Senator BOUFFARD: Even in the case where it is not in the contract?

Mr. LABARGE: We insist that it be in the contract.

The CHAIRMAN: If it is not in the bond, we can pass all the statutes we want, and they won't change the liability of the bonding company. That liability is determined by the conditions of the bond.

Senator MACDONALD: I don't see how the passage of this provision would put that clause in the bond, if it was not there in the first place.

The CHAIRMAN: It would not.

Senator MACDONALD: If it is in the bond, why is this section necessary?

Senator McKEEN: If you have an open end bond which carries on for the period, and if default takes place in the period covered by the bond, can you still collect without the benefit of this provision in the act?

Mr. LABARGE: No.

Senator MACDONALD: I will be pleased to pass the section, but I am not convinced of its need.

The CHAIRMAN: Mr. Labarge says he thinks he can explain it. It seems like a lot of words to me. All I know is, if I get a bond from a bonding company, and it contains certain conditions under which the bonding company is liable to pay, and the bond terminates, unless there is something in that bond which says it shall have effect beyond the termination date, then it does not carry on.

Mr. LABARGE: These bonds have to be approved by the minister, and contain a clause which says that certain provisions remain in effect after the bond terminates. But the Department of Justice felt that we have to have authority to confirm the continuance of this provision, since someone could argue that the cancellation of the bond cancelled out that clause.

The CHAIRMAN: I see your point. The Department of Justice felt that if you took a form of bond which contained a condition which carried the liability beyond the termination date, and there wasn't any authority in the statute for you to take a bond with such a clause, that you should have statutory authority.

Mr. LABARGE: That is about it.

Senator BRUNT: Now you have dotted your i's and crossed your t's.

Some hon. SENATORS: Carried.

The CHAIRMAN: Section 8 deals with the cancellation of license.

Some hon. SENATORS: Carried.

The CHAIRMAN: Section 9 deals with the refund of goods sold to the provinces. This is just a change in the method, and is made at the request of the provinces: they would be able to apply directly for the refund rather than go to their suppliers.

Some hon. SENATORS: Carried.

Senator MACDONALD: I don't know why we should accommodate them, but we will.

Senator BRUNT: We are just good fellows.

The CHAIRMAN: Then we come to clause 10 which I think we should discuss for a few minutes. I think, first of all, we should have an explanation from the representatives here as to the kind of situation which clause 10 is intended to cover.

Mr. LABARGE: The manufacturer or importer of goods is responsible under the law for the tax. He is the only person who is liable. He is licensed under it, and he has to pay the tax. When he makes a sale of anything that is taxable he collects the tax from the purchaser. If it is a sale to an exempt user then that person supplies him with a certificate that it is going to be used directly in production, or that it is for another exempt purpose. He has the onus on him, because he is the taxpayer, of making sure that what this man says to him is right, and that he is going to use it for that purpose. This has prevailed since the act has been in effect, and the same is true in customs. He feels a real sense of responsibility in making sure of this. May I say that not all people are that conscientious. Some have felt that they could print on a certificate a good reason why they think a thing should be exempt if it was used in a certain way, and allow the sale to go through as exempt. This has happened many times. It encouraged the sale of articles that could be exempt, and people were signing these certificates although they had no intention of using the article for that exempt purpose. Afterwards the man would say: "I didn't read the small print", but he was getting it that way without tax.

Then you have the other case of the buyer who comes in and says he is going to use it for an exempt purpose, and he signs a certificate to that effect, and the person from whom he is buying may not have any particular reason to doubt him, or may not know the fellow too well. Then, when he gets the certificate through he goes and uses it for another purpose than the exempt purpose.

The CHAIRMAN: Those are two types of cases, and they have the same pattern running through them. There must be a third type.

Mr. LABARGE: There are many types but we will stop at three, I think. The other one, which is not unusual and which depends somewhat on economic conditions and emergencies and prices, is where a man presents a certificate that he is going to use it for farm use, or logging. Then conditions change.

Either an attractive proposition is put to him of a taxable character which he goes out and works on having obtained the thing for the other purpose, or he just decides that the purpose for which he bought it no longer exists and he wants to go out into another taxable kind of operation. An example would be tractors for the farm. The farmer says: "Well, I have bought a big chunk of equipment here and my farm is not paying the thing off". Maybe the heat is on him for repayment on the instalment plan. He says: "I can work on the roads. Here is an opportunity", or he may say: "I can go and work on this new development. There has been a community development, and I can go in there and work", and he does that with equipment that has been exempt, and he is working alongside taxpayers who have tax-paid equipment.

Senator BRUNT: You cannot do that under this section, because there is nothing in the declaration at the time he made the purchase—

The CHAIRMAN: They are only talking about the dealer. A dealer may acquire a lot of tractors which may have a use that would exempt them from sales tax. That dealer, in the beginning, as a matter of law, is liable to pay the sales tax right there and then, but the department in its administrative functions is lenient, and if a representation is made that that machinery is going to be sold for an exempt purpose, and it is the type which might ordinarily be used for that purpose, they will say: "Well, we will not collect tax from you now, but you sign this agreement". There is an agreement signed, as I understand it, in which the dealer undertakes that if subsequently the machinery should be used for a purpose which is not exempt then he will pay the tax. What this section is attempting to do is to give some right to the dealer, if he is subsequently called upon to pay the tax, whereby he can go to the person who has committed the violation and collect from him the duty.

Senator BRUNT: But there must be a false representation.

The CHAIRMAN: May I go on and explain that the wording of this section is such that it only gives that benefit to the dealer in a case where the person who bought the machinery, and gave a certificate that he was going to use it for an exempt purpose, made a false statement in the certificate.

Some of the examples which have been given here are examples of where a farmer might acquire a tractor and he gives a certificate to the dealer and obtains the exemption, and the farmer, after six, eight or twelve months realizes, in a winter of heavy snow, that there is an opportunity to make some money by wheeling that tractor out on to the highway and getting some revenue. Immediately he does that, why, under the terms of the agreement and the condition of the law he has committed a violation, but you have no false statement anywhere in connection with it yet. By virtue of the agreement the Government can go to the dealer and claim the tax. The question is: What can the dealer do in relation to the farmer? This section does not help a dealer there.

Senator McDONALD (*Kings*): Suppose a farmer takes the tractor and goes out to clear a road so that the road will be open for the general public, and he receives no compensation for that.

The CHAIRMAN: Then, I would say he is all right.

Senator McDONALD (*Kings*): That happens often in the country.

Senator McKEEN: There is another case, and I want to know if it is covered. We bring in a lot of marine equipment and use it for 10 to 15 years,

and when it is of no further use to us we have sold it to, say, a mining company which has taken it for a power plant. In that case we pay duty on the assessed value to the customs directly, and not through any dealer.

Then, we may have a community which is having trouble with its power plant, and which may ask for the use of a diesel electric unit that is on a vessel to supply them with power for a few weeks. Would that make that vessel subject to duty because it is not used for marine purposes?

Mr. POWER: Equipment used for the generation of power is exempt from duty under another section.

Senator McKEEN: If it used for anything other than marine use we pay the duty which is assessed.

Senator KINLEY: With regard to the case of the farmer and his tractor, is he not only responsible for duty to the provincial authorities if he puts that tractor on the highway and works on a construction job?

The CHAIRMAN: No, it is a matter of sales tax, and the conditions under which you may get exemption from sales tax.

Senator KINLEY: And this farm machinery is all subject to sales tax?

The CHAIRMAN: Not if it is used for farm purposes only.

Senator KINLEY: For instance, he uses gasoline, and he is not supposed to go on the highway. You have nothing to do with that?

The CHAIRMAN: That is under the provincial Government.

Senator KINLEY: I thought that when he went on the highway with his tractor to a construction job he was only responsible to the provincial authority.

Mr. LABARGE: Well, he has to pay sales tax.

Senator KINLEY: If a man who owns a tractor on the farm rents his equipment to a contractor does he have to pay sales tax on that rental?

Senator BRUNT: Yes.

Senator KINLEY: To the federal Government?

Senator BRUNT: Yes.

Senator KINLEY: But not to the local Government?

Mr. LABARGE: The tax really applies to the article which becomes exempt when it is used for a particular purpose, for instance, farm equipment for farm purposes only. That is in the law. In another case it is logging exclusively.

Senator KINLEY: The trouble is that under this legislation you are dealing with people who do not know the score and you are going to get into difficulties. I doubt if it will pay you. You will have too much trouble for the revenue you get.

The CHAIRMAN: Oh, they collect all right. They do not collect from the farmer who makes a violation of the exempt use but they collect from the dealer. It is very simple for the department to collect but here they are trying to preserve the dealer's position against the parties who have made an unauthorized use. I think it is a commendable thing but the moment they get into that mood I would like to see them carry it to the full limit and not only cover the case of a false representation to be used for an exempt purpose but to carry it to the point where there was a subsequent use for a purpose which

did not entitle the person to an exemption. Those are the two classes of cases. If in both these cases you reserved the right of the dealer, I would be perfectly happy with it.

Senator HUGESSEN: Following along that line I was going to suggest that if it is desired to preserve the right of the dealer I think the section should be changed to read something like this. Take out the word "falsely" so that it would read:

"Where a purchaser of goods from a wholesaler, producer, manufacturer or importer has represented that the goods were intended for a use rendering them exempt from tax under any provision of this Act . . ."

and then you could add something like:

"and such goods are subsequently used for a purpose not so exempt. . ."

That would cover both cases where a man made a false representation at the time or where he made one that was perfectly true at the time but was subsequently falsified.

The CHAIRMAN: Would you go slowly on that, Senator Hugessen? I want to see how you put that. You have suggested taking out the word "falsely".

Senator HUGESSEN: Yes.

Senator BRUNT: It is in line 16 on page 5.

Senator HUGESSEN: I would delete the word "falsely" and add certain words at the end. It would then read:

"Where a purchaser of goods from a wholesaler, producer, manufacturer or importer has represented that the goods were intended for a use rendering them exempt from tax under any provision of this Act, and such goods are subsequently used for a purpose not so exempt. . ."

Senator REID: Why not leave it as it is?

Mr. LABARGE: Senator Hugessen, I would say there is a weakness in that wording in that the man could use it for the exempt purpose for a limited time. He could say, "That is what I said I would use it for." That purpose in the law may read "exclusively" or "only".

Senator HUGESSEN: But the illustration given to us by Senator Brunt when he explained the bill in the house was that of a farmer who buys a piece of equipment in perfectly good faith, making the representation that it is to be used solely on his farm. Then six months after he has bought it winter comes along and he is asked by his municipality to use it for a week or two in clearing the district roads. There was no false representation at the time he purchased it but it so happens, by reason of circumstances, it is used for a period for a purpose that is not exempt. That is the illustration Senator Brunt made in the house. We tried to show in the Senate chamber that that case is not covered in the language here.

Mr. LABARGE: I think you are right.

Senator BRUNT: There is another illustration. A farmer may buy a piece of equipment and die six months later. The executor winds up his estate and holds an auction sale and starts selling the equipment. The auctioneer does

not inquire from the buyer whether he is a farmer and is going to use the equipment solely on his farm. Supposing the auctioneer sells to a contractor? What happens then?

Mr. LABARGE: In most cases the auctioneer is wise enough to provide the tax.

Senator BRUNT: They are not in my vicinity.

Senator ASELTINE: I never heard of it in any auction sale.

Senator BRUNT: If it is sold to a contractor what happens? No tax has been paid.

Mr. LABARGE: The equipment becomes taxable and the original vendor of that who had a certificate, the dealer, is the one we would go to for the tax.

Senator BRUNT: What does the dealer do?

The CHAIRMAN: That is the problem.

Senator ASELTINE: Does he go and collect from the estate of the deceased?

The CHAIRMAN: Not unless he had an agreement.

Senator BRUNT: The deceased farmer had nothing to do with it being used in clearing roads.

Mr. LABARGE: The Customs Act comes into play. It has a different kind of clause and places the responsibility on anyone who has diverted it from an exempt purpose.

Senator BRUNT: I would point out that companies like Massey-Harris and Cockshutt make tractors right in Canada.

Mr. LABARGE: Following the case you have illustrated I am not just sure where we would get the tax, but I can tell you where we would try first. First we would ascertain whether the man who bought it in this case deemed it to be tax paid or non-tax paid and if he realized this had been sold to a farmer and was exempt, we would ask him for the tax first. If he did not want to pay it, we would go back to the dealer and say, "Look, here is a piece of equipment for which you took the responsibility because we let it go past the incidence of tax on your word that it would only be used for this purpose." If we were to take the law as it stands today, here is what we could do. Every piece of farm equipment sold by a manufacturer or an importer would be sold with the tax, and the manufacturer or importer would pay the tax that time, and then it could go on to the ultimate user and when he had it in his hands he would pay the tax too. Then he would make application all the way through this channel for a refund. That way we would be pretty safe, wouldn't we?

Senator BRUNT: No.

Mr. LABARGE: For the first instance.

Senator BRUNT: Yes, but after you refunded the tax, if the equipment was improperly used, you would start the whole process again.

Mr. LABARGE: Yes. This is a good example of the difficulties of conditional terms with respect to an exemption.

The CHAIRMAN: May I say that it is an illustration of the difficulty of having an exemption based on end use.

Mr. LABARGE: Yes. What I would like to point out about this section is that we have been endeavouring to meet in some way what we think is a fairly reasonable objection on the part of honest-to-goodness dealers dealing with honest-to-goodness people in the first instance, who later on have this thing fall into the hands of somebody else through an estate or something like this.

Senator MCKEEN: Couldn't there be a time limit?

The CHAIRMAN: Senator, I was going to say that in dealing with the situation in this section, where the word "falsely" occurs, you are getting into the realm of criminal law and intent, and how the federal Parliament could come along and indicate something that seems to me to be strictly a matter of property and civil rights in the provinces and establish some legal liability as between the dealer and the farmer, something that the dealer does not see fit to provide in his contract with the farmer, is beyond me. My feeling is that if we write something into this section of the statute to cover the situation where there is no intent to deceive, it would be a meaningless sort of thing and the dealer would still have to cover his right of recovery in his contract with the farmer who gives him the certificate certifying that it is going to be used for an exempt use. That is the way the dealer has to protect himself. I would like by statute to protect the dealer in all these circumstances, but what is the use of flying in the face of the law when the dealer can protect himself?

Senator BRUNT: This section does provide a certain amount of protection. We have to decide whether to take that away from him or to leave him with a bite of a cherry.

The CHAIRMAN: In my humble opinion, I think what we give him in section 10 is possibly all that the Federal Parliament can give him, and it lies in his own hands to get the rest of it by agreement.

Senator MacDONALD: Then we do not say that it is necessarily effective. The power of the Federal Government to allow the importer, the wholesaler, to collect from a third party without having a contract, I think is very doubtful.

Senator BRUNT: I do not think we should take away what we give him under this section.

The CHAIRMAN: Oh, no.

Senator KINLEY: What I am concerned about is frivolous prosecutions with the man who does not know. For instance, if my neighbour commits an offence I cannot bring an action against him.

Mr. LABARGE: No, but you can complain vociferously against him.

Senator PRATT: May I ask how old a machine must be before it is described as obsolescent?

Mr. LABARGE: There are many factors there, senator, the nature of the machine, and how it can stand up, and the kind of wear and tear it gets.

Senator PRATT: Should there not be some time limit, where a person who has a machine and gets it under these conditions, and then operates it, and eventually feels disposed to get another one, does so?

Mr. LABARGE: Take a \$3,000 tractor, or a \$30,000 piece of equipment. If you set a time limit there it would be unreasonable, because the one can outlive the other considerably; and this is supposed to be for the lifetime of the equipment.

Senator PRATT: But a person may spend perhaps half of what the machine is worth on repairs to fix it up again.

Mr. LABARGE: Well, we try to use a discretion here. For instance, an ordinary, standard farm tractor runs I think somewhere around three years, maybe a little more, that is what you would call average. Now, I do not think we go after the fellow who simonizes it every week.

Senator PRATT: Do I take it that there is a time limit borne in mind in each instance?

Mr. LABARGE: Very much.

The CHAIRMAN: For instance, if you had a machine for three years and put it to an unauthorized use, I think the department would establish a basis at the end of the three year period on which they would base the tax.

Mr. LABARGE: About the time we say it has completed its purpose.

Senator PRATT: Would it be feasible to have a time limit?

Mr. LABARGE: We have thought of time limits, but because of the nature of equipment and the seasonal uses and the different kind of wear and tear, it is very difficult to get a scale that is really applicable.

Senator PRATT: As far as application goes, time limit does prevail, although it is not laid down?

The CHAIRMAN: Yes, and I think it probably works better than not having it physically.

Senator HORNER: It is very difficult to place a time limit because those machines over the years might have done very little work, whereas others might have worn out through work.

Senator CRERAR: I was going to ask the witness what occasioned this?

Mr. LABARGE: It is an effort to help as much as we can those people who have found themselves, as they feel, holding the bag because of somebody else's action in telling them they were going to use it for a larger purpose, and then not using it.

Senator CRERAR: Does this arise out of snow-clearing operations?

Mr. LABARGE: No, it has arisen from general complaints since the beginning of time.

Senator DAVIES: Do I understand there is an excise tax on machinery manufactured in Canada?

Mr. LABARGE: Sales tax.

The CHAIRMAN: Shall the section carry?

Section 10 agreed to.

The CHAIRMAN: Shall section 11 carry?

Senator MACDONALD: When this bill is in the house I will reserve my remarks on third reading.

The CHAIRMAN: Shall we record that this section is carried on division?

Section 11 agreed to.

The CHAIRMAN: Clause 12 adds some exemptions to Schedule III.

Senator REID: Does this exempt feeds for animals?

Mr. LABARGE: This is only adding the underlined words, senator.

Senator REID: Why are you adding the words, "Feeds for fur-bearing animals whose pelts have commercial value"?

Mr. LABARGE: That is already in the act. This is just to show that this amendment will fit into the schedule.

Senator REID: Would fish be included in feeds for fur-bearing animals be exempt?

Mr. LABARGE: Yes, fish is exempt, anyway.

Senator McKEEN: Does fish include whales?

Mr. LABARGE: Here it would not matter whether it is a whale, or peanuts, or anything; if it is a feed for those animals.

Senator McKEEN: In this case, whales are?

Mr. LABARGE: Yes.

Section 12 agreed to.

—On Section 13—Coming into force.

The CHAIRMAN: This clause simply gives the dates of coming into force.

Senator MACDONALD: Does this affect any changes that we have made in the bill? We have made one change. This act shall be deemed to have come into force on the 10th day of April, 1959, and the clause that we have struck out has been in effect.

Senator BRUNT: No, we struck out section 2.

Senator MACDONALD: All right. The whole bill came into effect?

The CHAIRMAN: Yes.

The LAW CLERK: Mr. Chairman, by re-numbering clause 2, it seems to me that we shall have to re-number the other clauses. I would suggest a motion that the necessary consequential changes in this numbering be made.

The CHAIRMAN: Is that satisfactory? Carried.

Section 13 agreed to.

The CHAIRMAN: Shall I report the bill with the amendments?

Senator BRUNT: Carried.

Senator HAIG: On division.

Senator ASELTINE: On division.

The CHAIRMAN: The bill is reported with the amendments, on division.

Senator MACDONALD: With regard to clause 2, only 8, 9 and 10 are new, is that right?

The CHAIRMAN: That is right.

Senator MACDONALD: Now, subsections 2 and 3 of section 10 are not new. Are they going to remain in the bill?

The CHAIRMAN: The motion was to strike out clause 2, and they are part of clause 2.

Senator DAVIES: I do not understand. We voted to eliminate clause 8?

The CHAIRMAN: Clause 2 in its entirety. We voted to eliminate clause 2 which includes 8, 9 and 10.

Whereupon the committee adjourned.

